



AUSTRALIAN CAPITAL TERRITORY

# Board of Senior Secondary Studies Act 1997

No. 87 of 1997

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AUSTRALIAN CAPITAL TERRITORY

## **Board of Senior Secondary Studies Act 1997**

No. 87 of 1997

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### **An Act to establish a Board of Senior Secondary Studies**

*[Notified in ACT Gazette S380: 1 December 1997]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

#### **PART I—PRELIMINARY**

##### **Short title**

**1.** This Act may be cited as the *Board of Senior Secondary Studies Act 1997*.

##### **Commencement**

**2. (1)** Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

**(2)** The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

### **Interpretation**

3. In this Act, unless the contrary intention appears—

“accredited course” means—

- (a) a course accredited under section 21, 22 or 23; or
- (b) a course to the accreditation of which subsection 30 (2) applies;

while the accreditation is in effect;

“alternate” means a person holding an appointment under section 11 or 12;

“appointed member” means a member appointed by the Minister;

“Board” means the Board of Senior Secondary Studies established by section 4;

“course” means a course of study for senior secondary students;

“Executive Officer” means the person referred to in subsection 18 (2);

“member” means a member of the Board and includes the Chairperson;

“national agreement” means an agreement that—

- (a) is entered into by the Territory, the Commonwealth, the States and the Northern Territory;
- (b) deals with the provision of vocational education; and
- (c) is declared by the Minister, by notice published in the *Gazette*, to be a national agreement for the purposes of this Act;

“recognised educational institution” means a school, college or other educational institution at which a person provides, or offers to provide, senior secondary education, being a school, college or institution that is—

- (a) conducted under paragraph 6 (1) (a) of the *Schools Authority Act 1976*; or
- (b) registered or provisionally registered under Part III of the *Education Act 1937*;

“registered course” means—

- (a) a course registered under section 25; or
- (b) a course to the registration of which subsection 30 (2) applies;

“senior secondary education” means the education normally provided to students in the final 2 years of full-time secondary schooling.

## **PART II—THE BOARD OF SENIOR SECONDARY STUDIES**

### **Establishment of the Board**

**4. (1)** There is hereby established a board to be known as the Board of Senior Secondary Studies.

**(2)** The Board—

- (a) is a body corporate, with perpetual succession; and
- (b) shall have a common seal.

### **Functions of the Board**

**5. (1)** The principal functions of the Board are—

- (a) to accredit or register courses taught by recognised educational institutions;
- (b) to approve, consistently with national agreements, recognised educational institutions for teaching vocational education courses;
- (c) to establish guidelines for the development of courses by the Board or by a recognised educational institution;
- (d) to establish principles and procedures for the assessment of attainments of students and the moderation of those assessments;
- (e) to provide, to persons who have undertaken courses or units of courses, certificates and transcripts of their attainments;
- (f) to provide information on—
  - (i) the performance of students and former students; and
  - (ii) the policies and procedures of the Board;
- (g) to review from time to time its own operations and the operation of this Act; and
- (h) to advise the Minister on any matter referred to in this section.

**(2)** For the purposes of paragraph (1) (a) the Board has the following additional functions:

- (a) to establish guidelines for the accreditation of courses, including vocational education courses;
- (b) to ensure, where appropriate, the application of national agreements in relation to the accreditation of vocational education and training courses;
- (c) to identify the minimum resources necessary for the satisfactory provision of such courses as the Board determines.

**(3)** For the purposes of paragraph (1) (d) the Board has the following additional functions:

- (a) to prepare guidelines and requirements for the assessment of students' attainments;
- (b) to make arrangements for the administration by recognised educational institutions of the test known as the Australian Scaling Test, or such other test in lieu of the Australian Scaling Test as is approved by the Board;
- (c) to develop and implement procedures for the moderation of students' assessments;
- (d) to develop procedures for—
  - (i) the review by recognised educational institutions of the assessments of their students;
  - (ii) the review by the Board of procedures applied by a recognised educational institution in assessing a student or reviewing such an assessment; and
  - (iii) the review, by recognised educational institutions or by the Board, of disciplinary action taken by the institutions in connection with the assessment of a student.

**(4)** For the purposes of paragraph (1) (e) the Board has the following additional functions:

- (a) to prepare guidelines for the issue of certificates of attainment;
- (b) to make such arrangements as the Board deems fit to ensure to the greatest extent possible that certificates issued by the Board are recognised by employers and providers of further training or higher education;

- (c) to consult with institutions that provide tertiary education or vocational education or training for the purpose of reviewing from time to time the effect of their requirements and procedures for the admission of students and to provide appropriate guidance to those institutions;
  - (d) to issue, consistently with national agreements, certificates or other evidence of the achievements of vocational education or training qualifications.
- (5)** For the purposes of paragraph (1) (f) the Board has the following additional functions:
- (a) to collect and record information concerning the performances of students;
  - (b) to provide, to institutions that provide tertiary education or vocational education or training, information on applicants for admission to those institutions;
  - (c) to publicise the guidelines, requirements, procedures and standards for assessments, certification and accreditation used by the Board;
  - (d) to make available, as determined by the Board, statistical information concerning—
    - (i) senior secondary education in the Territory; and
    - (ii) the functions of the Board;
  - (e) where appropriate, to recognise secondary educational attainments obtained outside the Territory and provide statements of equivalence where requested.

## **Powers**

**6. (1)** The Board has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

**(2)** Without prejudice to the generality of subsection (1), the Board has power to—

- (a) appoint such committees and advisory panels as it deems necessary; or
- (b) issue, to persons who have undertaken courses or units of courses, certificates stating their academic attainments.

### **Ministerial directions**

**7. (1)** The Minister may, by instrument, give directions to the Board in relation to the performance of its functions.

**(2)** The Minister may not give a direction that relates to a particular student or a particular assessment.

**(3)** The Board shall give effect to a direction under this section.

**(4)** A report by the Board for the purposes of section 8 of the *Annual Reports (Government Agencies) Act 1995* shall include, in relation to the reporting period—

- (a)** a copy of any direction given to the Board by the Minister during the period; and
- (b)** particulars of—
  - (i)** the measures taken to give effect to any direction given during the period; and
  - (ii)** any measures not disclosed in a previous report taken to give effect to a direction given during a previous period.

**(5)** An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

### **Membership of the Board**

**8. (1)** The Board shall consist of the following members:

- (a)** a Chairperson;
- (b)** 1 person appointed after consultation with the Canberra Institute of Technology;
- (c)** 1 person appointed after consultation with the Vocational Education and Training Authority;
- (d)** 1 person appointed after consultation with The Australian National University;
- (e)** 1 person appointed after consultation with the University of Canberra;
- (f)** 1 person appointed after consultation with the body known as the Association of Independent Schools;
- (g)** 1 person appointed after consultation with the Australian Capital Territory branch of the Australian Education Union;



- (h) 1 person appointed after consultation with the body known as the Catholic Education Commission;
- (i) 1 person appointed after consultation with the body known as the Secondary College Principals' Association;
- (j) 1 person appointed after consultation with the body known as the ACT Council of Parents and Citizens Associations;
- (k) 1 person appointed after consultation with the Association of Parents and Friends of the ACT Schools Inc.;
- (l) 1 person appointed after consultation with the ACT and Region Chamber of Commerce and Industry;
- (m) 1 person appointed after consultation with the ACT Trades and Labour Council;
- (n) the Chief Executive;
- (o) the Executive Officer.

(2) A member referred to in paragraphs (1) (a) to (m) (inclusive) shall be appointed by the Minister by instrument.

(3) The Minister shall not appoint a person to be a member of the Board unless satisfied that the person has qualifications and expertise relevant to the functions of the Board.

#### **Functions of Board not affected by vacancies**

9. The performance of a function by the Board is not affected by reason only of there being a vacancy or vacancies in its membership.

#### **Terms of appointment**

10. An appointed member holds office for such period not exceeding 3 years as is specified in the instrument of appointment and is eligible for re-appointment.

#### **Alternates of appointed members**

11. (1) The Minister may, by the instrument by which an appointed member, other than the Chairperson, is appointed or by another instrument, appoint an alternate of that member.

(2) The alternate of a member appointed on the written nomination of a person or body shall be appointed on the written nomination of the person or body entitled to nominate the member.

(3) The Minister shall not appoint a person under this section unless satisfied that the person has qualifications and expertise relevant to the functions of the Board.

(4) An alternate holds office for such period not exceeding 3 years as is specified in the instrument of appointment and is eligible for re-appointment.

(5) A member is not eligible to be appointed under this section.

(6) An appointment under this section ceases by virtue of this subsection if the appointee becomes a member.

### **Function of alternates**

12. (1) An alternate may participate in a meeting of the Board in the absence of the member whose alternate he or she is.

(2) Where a member in respect of whom an alternate has been appointed ceases to be a member, the alternate—

- (a) continues in office subject to this Act in accordance with the terms of the instrument of his or her appointment;
- (b) may participate in meetings of the Board until another person becomes a member in place of the first-mentioned member; and
- (c) upon another person's becoming a member in place of the first-mentioned member, shall be taken to be the alternate of the new member.

### **Disclosure of interest**

13. (1) A member of the Board who has a direct or indirect personal or pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure shall be recorded in the minutes of the meeting and, unless the Board otherwise determines, the member shall not—

- (a) be present during any deliberation of the Board with respect to that matter; or
- (b) take part in any decision of the Board with respect to that matter.

(3) A member referred to in subsection (1) shall not—

- (a) be present during any deliberation of the Board for the purpose of considering whether to make a determination under subsection (2) in relation to that member; or

(b) take part in the making by the Board of such a determination.

(4) In this section—

“member” includes an alternate who participates in a meeting of the Board.

### **Resignation**

14. An appointed member or alternate of an appointed member may resign his or her office by notice in writing signed by the member or alternate, as the case requires, and given to the Minister.

### **Termination of appointment**

15. The Minister shall terminate the appointment of an appointed member or of an alternate of an appointed member if—

- (a) in the case of a member—he or she is absent, without the approval of the Chairperson, from 3 consecutive meetings of the Board;
- (b) in the case of an alternate—he or she is absent, without the approval of the Chairperson, from 3 consecutive meetings of the Board in which he or she is eligible to participate;
- (c) the member or alternate fails, without reasonable excuse, to comply with section 13; or
- (d) the member or alternate is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for 1 year or longer.

### **Procedures of the Board**

16. (1) The Chairperson shall convene such meetings of the Board as he or she considers necessary for the performance of its functions.

(2) The Chairperson shall preside at all meetings at which he or she is present.

(3) At a meeting of the Board a quorum consists of 8 members.

(4) If the Chairperson is not present at a meeting or part of a meeting, the members present shall elect 1 of their number to preside at the meeting or part.

(5) Questions arising at a meeting shall be decided by a majority of votes of members present and voting.

(6) The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes on a question, a casting vote.

(7) Subject to this Act, the procedures of the Board shall be as determined by the Chairperson or, where a presiding member has been appointed under subsection (4), by that member.

(8) The Board shall keep written minutes of its proceedings.

(9) In this section—

“member” includes an alternate who attends a meeting of the Board in lieu of a member.

### **Delegations**

17. (1) The Board may, either generally or otherwise as provided by resolution, by instrument under its common seal, delegate any of its powers under this Act, other than this power of delegation, to—

(a) a member; or

(b) a member of the staff of the Board.

(2) A certificate signed by the Chairperson stating any matter with respect to a delegation under this section is evidence of that matter.

(3) A document purporting to be a certificate referred to in subsection (2) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

### **Executive Officer**

18. (1) The Chief Executive shall maintain an office in the Government Service the duties of which include performing the functions of the office of Executive Officer of the Board.

(2) The Executive Officer shall be the public servant for the time being performing the duties of the Government Service office referred to in subsection (1).

(3) The Executive Officer shall perform such functions as the Board directs.

### **Staff**

19. (1) The Board may make arrangements with the Chief Executive for the use of the services of public servants in the administrative unit under the Chief Executive's control.

(2) The *Public Sector Management Act 1994* applies in relation to the management by the Board of public servants who are the subject of an arrangement under this section.

### **Protection of members**

**20. (1)** No action or other proceeding, civil or criminal, lies against a person who is or has been a member of the Board in relation to an act done or omitted to be done in good faith in the performance or exercise, or purported performance or exercise, of a function or power under this Act.

**(2)** Nothing in subsection (1) shall be taken to affect any liability that the Territory would, but for that subsection, have in respect of an act or omission mentioned in that subsection.

## **PART III—ADMINISTRATION**

### ***Division 1—Accreditation and registration of courses***

#### **Accreditation of courses on application**

**21. (1)** A recognised educational institution, or a person on behalf of a recognised education institution, may apply to the Board for the accreditation of a course to be taught at the institution.

**(2)** On receipt of an application under subsection (1), the Board shall—

- (a) accredit the course; or
- (b) refuse to accredit the course.

**(3)** An accreditation is effective for such period of time and may be subject to such conditions as the Board determines.

#### **Accreditation of courses without application**

**22. (1)** Subject to the relevant guidelines, the Board may, on its own motion, accredit a course.

**(2)** An accreditation under this section may be subject to such conditions as the Board determines.

#### **Review of refusal to accredit**

**23. (1)** Where the Board, under section 21—

- (a) accredits a course subject to a condition; or
- (b) refuses to accredit a course;

the applicant may, within 1 month of being advised of the decision, by notice in writing to the Executive Officer, request the Board to review the decision.

(2) Within 1 month of the receipt of a request under subsection (1) the Chairperson of the Board shall establish a committee for the purpose of advising the Board in relation to the request.

(3) As soon as practicable after receiving the advice of the committee referred to in subsection (2) the Board shall review the original decision and affirm it or replace it with another decision of the kind that the Board may make under section 21.

(4) The Board shall cause the applicant to be advised in writing of its decision under subsection (3).

### **Considerations relating to accreditation of courses**

24. In making a decision under section 21, 22 or 23, the Board shall have regard to the following:

- (a) the coherence of the course;
- (b) the appropriateness of the course;
- (c) the clarity of the course;
- (d) the manner in which it is intended to teach the course;
- (e) the relevant guidelines of the Board;
- (f) the policies of the Board.

### **Registration of courses**

25. (1) A recognised educational institution, or a person on behalf of a recognised educational institution, may apply to the Board for the registration of a course to be taught at the institution.

(2) On receipt of an application under subsection (1), the Board shall—

- (a) if the application complies with subsection (3)—register the course; or
- (b) if the application does not comply with subsection (3)—refuse to register the course.

(3) An application complies with this subsection if it is accompanied by such documents and information that satisfy the Board that the course to which the application relates complies with the relevant guidelines of the Board.

(4) A registration under paragraph (2) (a) is effective for such period of time, and is subject to such conditions, as the Board determines.

(5) The Board shall cause the applicant to be advised in writing of its decision under subsection (2).

***Division 2—Certificates of attainment***

**Issue of certificates of attainment**

26. (1) Subject to this section, the Board shall issue to a person who has satisfactorily completed a course or a unit of a course at a recognised educational institution a certificate that shows his or her attainments.

(2) The Board shall not issue a certificate under subsection (1) in respect of a course or unit of a course unless it is satisfied that—

- (a) the course has been taught in accordance with the guidelines that relate to its accreditation and any conditions that the accreditation is subject to; and
- (b) any guidelines and requirements of the Board relating to the teaching of the course and the assessment of students have been observed by the recognised educational institution.

(3) For the purpose of satisfying itself for the purposes of subsection (2) the Board is entitled to rely on information contained in a certificate provided to it by or on behalf of a recognised educational institution.

(4) A certificate under subsection (1) may state any information that is available from the records of the Board and appears to the Board to be connected with the person's studies.

(5) In this section—

“course” means an accredited course or a registered course.

**Review of failure to issue certificate**

27. (1) In this section—

“certificate” means a certificate of any kind ordinarily issued by the Board to a person who has completed the studies to which the certificate relates, and includes a certificate referred to in section 26.

(2) A person aggrieved by the refusal of the Board to issue a certificate may apply in writing to the Board for a review of the refusal.

(3) The application shall—

- (a) disclose the grounds on which the review is sought; and

- (b) be lodged within 1 month after the day specified by the Board as the day on which the certificate that is the subject of the application would have been issued.

(4) Within 1 month after the receipt of an application under subsection (2) the Chairperson of the Board shall establish a committee for the purpose of advising the Board in relation to the application.

(5) As soon as practicable after receiving the advice of the committee referred to in subsection (3) the Board shall review its decision and—

- (a) affirm it; or
- (b) issue the required certificate.

(6) The Board shall cause the applicant to be advised in writing of its decision under subsection (5).

#### **PART IV—MISCELLANEOUS**

##### **Provision of information**

28. (1) A person who, before or after the commencement of this section, has completed his or her senior secondary education, may apply in writing to the Board for a copy of the information held by the Board concerning his or her academic performance.

(2) On receipt of an application under subsection (1) the Board shall provide a copy of the information to the applicant or to such person as the applicant specifies in writing.

##### **Register**

29. (1) The Board shall keep a register relating to courses that—

- (a) it has accredited or registered; or
- (b) were accredited or registered by the former Board, being courses the accreditation or registration of which was in effect at the commencement of this section;

and shall enter on the register such information as the Board determines.

(2) The register shall be kept in such form as the Board determines.

(3) A person is entitled to inspect the register at the office of the Executive Officer during ordinary office hours.

(4) In this section—

“former Board” has the same meaning as in section 30.



**Transitional**

**30. (1)** In this section—

“commencement day” means the day on which section 4 commences;

“former Board” means the unincorporated body known as the ACT Board of Senior Secondary Studies established by the Minister and in existence immediately before the commencement day.

(2) The accreditation or registration of a course granted or extended by the former Board and in effect immediately before the commencement day continues, by virtue of this subsection, to have effect according to its tenor for the remainder of the period of time for which it had been granted or extended, as the case requires.

(3) This Act applies to, and in relation to, a certificate or other document issued by the former Board as if it had been issued by the Board.

(4) A person aggrieved by the refusal of the former Board—

- (a) to accredit a course; or
- (b) to issue a certificate;

may apply in writing to the Board for a review of the refusal and such an application shall be dealt with under section 23 or 27, as the case requires, as if the refusal had been made by the Board.

(5) An application made to the former Board before the commencement day and not finally dealt with by that Board before that day, being an application of a kind that, under this Act, may be made to the Board, may be dealt with, or continue to be dealt with, by the Board as if it had been made to it under this Act.

(6) On the commencement day the registers, records and documents of the former Board become the property of the Board and shall be taken to be incorporated with the registers, records or documents (as the case requires) kept by the Board.

*[Presentation speech made in Assembly on 28 August 1997]*