

DRAFT SECOND READING SPEECH  
HON SARAH COURTNEY MP  
*Education Legislation Amendments (Education Regulation) Bill 2021*

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Mr Speaker, the purpose of this Bill is to improve learner outcomes by modernising the governance arrangements for four education regulators within Tasmania.

The Bill has three principal elements. Firstly, it provides a contemporary governance framework for regulators to support the delivery of outcomes, while expanding the opportunity for stakeholder voice to be heard. Secondly, it establishes a performance framework for the regulators that requires them to report against outcomes achieved. Thirdly, it enhances the provision of independent regulatory decisions by the appointment of skills-based boards. It also does this by clarifying the respective roles and responsibilities of the regulators and the Department of Education in education regulation.

The four regulators are the Teachers Registration Board Tasmania, the Office of Tasmanian Assessment, Standards and Certification, the Registrar Education, and the Non-Government Schools Registration Board. The Bill does not change the regulators' functions.

**Mr Speaker, why do we regulate education?**

Learners should be at the centre of regulation.

Education Regulators play a very important role in driving quality in our education system, for all Tasmanian learners, across all education sectors. They contribute to the quality of teaching that learners experience; how students' learning is assessed and recognised; the quality and safety of learning environments; and the extent to which students are participating and engaged in learning pathways.

The modernisation of the governance arrangements for education regulation will deliver value to the community through the benefits from improved learner outcomes such as a skilled workforce, increased employment, economic growth and community wellbeing. Compliance with regulatory arrangements and improvements in the quality of education outcomes for students are a key means to that end.

## Mr Speaker, why have we undertaken a review?

During the last twenty years there have been changes in the governance of education regulators interstate as well as governance reforms of regulators outside of the education sector. There have also been significant changes in the education environment both locally and at the Australian Government level including:

- the *Education Act 2016* which lays the foundation for improving the educational outcomes of Tasmanians;
- the extension of the requirement under the *Education Act 2016* to remain in education or training until the completion of Year 12, a Certificate III or attaining the age of 18;
- the National School Reform Agreement and accompanying bilateral agreement which have changed the funding arrangements for schooling in Australia and introduced National Policy Initiatives to drive national reforms and improve student outcomes; and
- the Recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

It is the right time to consider whether, collectively, the existing regulatory arrangements best support learners within the current education environment. We also need to consider whether the purpose of regulation is now out of date, or missing the mark for some of our regulators.

In this context the Government established a steering committee to review education regulation within Tasmania. The committee's report was released in January this year and included 24 recommendations which were adopted by the Government. The majority of these require legislative change and are reflected in this Bill.

The Steering Committee had an independent chair and comprised the heads of the three school sectors (Independent Schools Tasmania, Catholic Education Tasmania and the Department of Education) as well as a senior representative from the Department of Premier and Cabinet and also the Department of Treasury and Finance.

The Committee considered the objectives of the Review, best practice approaches to regulation, what happens in other jurisdictions, and the current state in Tasmania. It directly engaged with the Regulators and released a Discussion paper and a Report. It undertook extensive public consultation in framing its recommendations. These recommendations have unanimous support across the heads of the three school sectors.

I will now provide more detail about the three elements of the Bill I referred to earlier.

### **Better practice regulation with a focus on learner outcomes**

Mr Speaker, we need to be explicit what we expect from our Regulators. A contemporary approach, based on evidence, requires better practice regulation with a focus on outcomes. In order to give effect to this, the Bill provides a performance framework for the regulators that has four elements, the first of which is the setting of relevant principles.

Currently the Education Registrar and the Non-Government Schools Registration Board are to observe the principles in the Education Act. These principles underpin all education in Tasmania. They were developed following two years of extensive consultation on the Education Bill, including more than 1 000 responses over three rounds of consultation from submissions to participation in workshops and information sessions. The principles were debated and agreed by this Parliament in 2016 when the Education Act was passed. They include:

- the right of every child to receive an education until the child completes Year 12, the year of home education equivalent to Year 12 or an approved learning program;
- that the State recognises the role and importance of a child's parents in the education of their child; and
- the importance of a collaborative approach to achieving the best educational outcomes for children.

It is appropriate that this Bill provide for all four regulators to have regard to these principles in performing their functions and exercising their powers.

The Steering Committee also recommended that each regulator be subject to regulator specific principles largely relating to the quality with which they undertake regulation. These include requirements that regulators are to ensure that the wellbeing and best interests of students is foremost when they design and administer regulatory approaches and that they undertake clear targeted and effective communication with regulated entities such as teachers, students and schools.

After extensive consultation with regulators about the application of these principles, it was decided that they would be better tailored for each regulator by their inclusion in a Ministerial Instruction rather than in this Bill.

The second component of the performance framework relates to the Minister setting annual policy expectations for each regulator. The Bill provides for a Ministerial Statement of Expectations to be provided to each regulator. It will include expectations in relation to organisational values and culture, having regard to Government education policies and the implementation of the funding recommendations in the Steering Committee report.

The Education Regulation Advisory Council will be established under the existing Education Act. It comprises the heads of the three school sectors. It will have an advisory role to the Minister in relation to the Ministerial Statement of Expectations, the corporate planning process and board appointments.

The Tasmanian Home Education Advisory Council will continue, as established in the existing Education Act, in its Advisory role to the Minister on matters relating to home education.

The third component requires each regulator to prepare a corporate plan including details of the strategic direction of the regulator, risk identification and management as well as outcome based performance targets for annual approval by the Minister.

The final component of the performance framework in the Bill is the requirement for each regulator to report against these performance targets in its annual report.

### **A contemporary governance framework for regulators**

Mr Speaker, the second element of the Bill is to provide a contemporary governance framework for regulators to support the delivery of outcomes, as well as enabling the provision of stakeholder voice in regulation.

A fundamental question examined by the Steering Committee was whether there should be one or four regulators. There is a considerable commonality of functions across Tasmanian education regulators. New South Wales has amalgamated its regulators under the New South Wales Education Standards Authority, although other States have maintained separate regulators.

The Committee concluded that amalgamation would be a very significant undertaking at this stage with more certain benefits and impact able to be delivered earlier through the other reforms it proposed through its integrated set of 24 recommendations. The Government endorses this view.

The Bill provides for the continuation of the existing governance model of a board supported by a Registrar for the Teachers Registration Board, the Non Government Schools Registration Board and a single regulator for the Registrar Education.

It establishes a skills based board for Tasmanian Assessment Standards and Certification (TASC), removes the Framework Advisory Council and creates a registrar function to support the board. This change from a single regulator to a board is proposed because in the last five years the education and training environment has continued to evolve. The specific context in which TASC is operating has become more complex and dynamic. For example:

- there is increased demand for TASC services as a result of the extension of the requirement under the *Education Act 2016* to remain in education or training until the completion of Year 12, a Certificate III or attaining the age of 18;
- the Years 9-12 Project and associated senior secondary curriculum reforms intersect substantially with TASC's functions; and
- National Cabinet's focus on managing the pandemic and on the economy and jobs. The Premier's Economic and Social Advisory Recovery Council has recommended improving pathways from education to jobs. TASC has a critical role in this process.

Best practice principles for the governance of regulators include the adoption of a board where the subject matter is complex, significant risk is present and the environment in which it operates is dynamic. All of these factors exist for TASC.

The consequences of regulatory decisions made by TASC are great. Failure to deliver on its core functions could have a significant and adverse impact on both learners and teachers and reduce community confidence in regulatory decisions.

The Government firmly believes that there is a need for a diversity of wisdom and experience required for informed decision making because of the level of judgement required and that it is not feasible to continue to ask a single person to assume such responsibility, even supported by an advisory council. The Bill therefore provides for TASC to be established as a skills based board supported by a Registrar.

The Non-Government School Registration and the Teachers' Registration Boards can be classified as representative. That is they include members from organisations that they regulate which creates a potential conflict of interest for board members. The Bill establishes all three

board as skills based and is more likely to avoid potential conflicts of interest and will provide more independent regulatory advice.

Board members are required to have general board governance skills as well as skills relevant to the Board's functions. Each board will be expected to identify the skills, knowledge, experience and capabilities it requires of members in aggregate. This will be used in the board selection process.

The Bill also provides that the boards be made up of five to seven members appointed by the Minister for three-year terms. The Minister can decide on reappointments of existing board members for an additional term.

### **Director Education Regulation**

Mr Speaker under the proposed regulatory model, each regulator would continue as a separate entity responsible for regulatory decision making. Responsibility for administrative outcomes and the delivery of functions would be combined under a single Director of Education Regulation which will take on the functions and powers of the Registrar Education, Teachers Registration Board Registrar and Tasmanian Assessment Standards and Certification Registrar. The Bill provides that the Registrars and therefor the Director can delegate their functions and powers to a Deputy Director in each of these regulators.

The role of Director Education Regulation is established given:

- the desirability of more collaboration and coordination across each of the regulators;
- the commonality of legislated functions across the regulators, the delivery of which may be improved by shared processes supporting registration and the management of internal appeal processes;
- the outputs of some regulators are inputs into the decisions of another regulator. For example, decisions in relation to the registration of non-government schools need information as to whether their teachers are registered and their courses are accredited; and
- to provide more internal support for each Deputy Director and their performance management under the State Service Act.

### **What will the Director do?**

Mr Speaker, the responsibilities of the Director Education Regulation will include:

- Facilitating the adoption of modern regulatory practices across the regulators;
- Strategic Leadership;
- Promote collaboration and coordination across the regulators; and
- Development across the four regulators of frameworks for managing risk, delegations and performance.

## **Delegations**

Mr Speaker, how will the delegation of functions and powers work? Contemporary boards need to delegate their functions in order to effectively undertake their role in oversight of the performance and governance of their organisation. Board selection processes and the Ministerial Statement of Expectations will support this approach. Boards can continue to delegate to the Director and Deputy Directors.

Delegations frameworks already operate effectively in more complex environments than education regulation. For example, the Tasmanian State Service Act provides for the Premier to delegate functions or powers to the head of the State Service and /or Heads of State Service agencies. These delegations are then allocated within agencies.

The Government intends that the new structure should be reviewed in three to five years' time to ensure its effectiveness.

## **Stakeholder Voice**

Mr Speaker, the regulation of education impacts learners, parents, families, teachers, schools, education systems, and other education providers. Acknowledging the need for stakeholder voice to be represented in the model of Regulation, the Bill provides mechanisms for the creation of committees to provide policy and operational advice. This is especially important in the design of processes to support the discharge of regulatory functions in a contemporary way.

One of the principles in the Education Act relates to the importance of students being actively involved in decisions affecting their participation in education, while having regard to their age and understanding. I expect regulators to establish mechanisms such as committees, or student advisory groups to ascertain student voice.

Likewise, I consider it essential that the voice of practicing and experienced teachers be a feature of a fit for purpose governance and committee structure established by the Teachers Registration Board.

The Tasmanian Home Education Advisory Council has operated effectively as a stakeholder voice to the Minister for home educators under the current Education Act. This will not change. The Council will continue to have a role in relevant selection processes.

The Education Act provides for the additional recognition of stakeholder voice in education regulation in relation to the three school sectors through the formation of the Education Regulation Advisory Council mentioned earlier.

### **Independent Advice**

Mr Speaker, the third element of the Bill enhances the provision of independent regulatory decisions. It does this for regulators by the appointment of skills based boards. As noted earlier this reduces the potential for conflicts of interest with representative boards.

It also does this by clarifying the respective roles and responsibilities of the regulators and the Department of Education in education regulation.

Independent regulatory advice is promoted by the clear separation and clarification of the role of the regulator, the Minister and the Department of Education. The Bill provides that regulators are not subject to the direction of the Minister or Secretary in respect of individual regulatory decisions.

The Framework Agreement clarifies the application of Government policies to the regulators through the Statement of Ministerial Expectations and through clarification in the Bill that the Treasurer's Instructions apply to the regulators.

Mr Speaker, all Tasmanian students are entitled to an education of a quality that is capable of enabling them to reach their potential and so maximise their achievements and contribution to the community. The Government has observed significant change in the education environment both within Tasmania and the Commonwealth. There is a need to ensure that Tasmania's regulatory framework is contemporary and supportive of our learners for our State to continue to prosper.

Mr Speaker I commend the Bill to the House.