

## CLAUSE NOTES

### *Education Legislation Amendments (Education Regulation) Bill 2021*

**Clause 1: Short title**

This clause provides that the Bill will be cited as the *Education Legislation Amendments (Education Regulation) Act 2021*.

**Clause 2: Commencement**

The Act will commence on a day to be proclaimed.

#### EDUCATION ACT 2016 AMENDED

**Clause 3: Principal Act**

This clause provides that the Principal Act to which the amendments apply is the *Education Act 2016*.

**Clause 4: Section 4 amended (Principles which are basis of Act)**

Section 4 sets out the principles which are the basis of the Principal Act. These principles emphasise the right of children to an education as well as setting out responsibilities of the state, parents and other members of the Education system.

The amendment updates the existing principle in section 4(1)(g) to incorporate education regulators (newly defined term) into the principle supporting collaboration between parts of the education system to achieve the best educational outcomes for children.

The amendment also creates a new principle in section 4(1)(k) that entitles all students to a quality education, to enable them to reach their potential.

The amendment provides clarity through the addition of subsection 4(1A) which specifies the principles are to be considered in the exercise of a function, action, power or duty under the Principal Act.

The *Education Act 2016* principles provide a clear sense of purpose for what the Government is trying to achieve for learners and the Tasmanian community through the education portfolio. They were developed through extensive consultation with the community, debated in this parliament, and represent the headline statement for a contemporary and cohesive legislative framework shaped by evidence of what makes a difference to improving educational outcomes.

They are not intended to provide a checklist for every action undertaken by the education regulators or other educational stakeholders. Their application is intended to establish alignment with the broader education system, and to ensure a focus on delivering outcomes for learners. For education regulators, the principles can be used to guide decision making and assist in the design of best practice approaches to regulation.

**Clause 5: Section 5 amended (Interpretation)**

Section 5 of the Principal Act provides for definitions of phrases within the Act.

The amendment defines “education regulator”, which is a key term used throughout amendments to include the Registrar Education, Non-Government Schools Registration Board (NGSRB), the newly established Tasmanian Assessment, Standards and Certification Board (TASC Board) and the Teachers Registration Board (TRB).

**Clause 6: Section 6 amended (Ministerial Instructions)**

Section 6 sets out the existing power of Ministerial Instructions which applies to enrolment, attendance, conciliation conferences, home education, registration of non-government schools or other relevant parts of the Principal Act which the Minister considers appropriate.

The amendment extends this to include the exercise of powers under the Principal Act, the *Tasmanian Assessment Standards and Certification Act 2003*, the *Teachers Registration Act 2000*, as well as the newly created Independent Review power the Minister has for each of the Education Regulators.

The widening of application of the current provision, relates to the removal of individual powers of Ministerial Direction such as the current section 10 of the *Teachers Registration Act 2000*.

The amendment in the new subsection (5A) provides a limitation that a Ministerial Instruction may not seek to direct an education regulator in relation to an individual regulatory decision. This is an important protection to maintain regulator independence.

Ministerial Instructions issued under new subsection(2)(i) support the establishment of the performance framework which provides clear accountabilities of the regulators to the Minister. They support key elements such as the application of the *Education Act 2016* principles, development of the Statement of Expectations as well as other processes such as annual reporting, development of a Corporate Plan or best practice approaches to regulator governance.

**Clause 7: Part 7, Division 2, Subdivision 1: Heading amended (Appointment, review, functions and duties of Registrar, Education)**

The amendment alters the heading of the subdivision in the Principal Act to reflect the inclusion of the new power of the Minister to require an “Independent Review” of an education regulator.

**Clause 8: Section 218 amended (Appointment of Registrar, Education)**

The current section 218 provides that in accordance with the *State Service Act 2000* the Registrar, Education may be appointed.

The amendment provides clarification that the Registrar, Education may be appointed under the *State Service Act 2000*, or that a state service officer or employee may be assigned the duties in conjunction with their State Service employment. It also clarifies that this person cannot be a member of the NGSRB or the Tasmanian Home Education Advisory Council (THEAC).

This helps give effect to the recommendations accepted by Government in the *Review of Education Regulation, Steering Committee Report, December 2020* (The Steering Committee Report). The intent of which is to retain each regulator as a separate entity responsible for regulatory decision making and combine the responsibility for administrative outcomes and delivery of functions under a single Director of Education Regulation, that would be appointed to assume the functions and powers of the Registrar, Education, the TRB Registrar and the TASC Registrar.

This recommendation was prompted by:

- 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
- the need for increased leadership and support for senior staff within the regulators.

**Clause 9: Section 219 amended (Functions of Registrar, generally)**

Section 219 sets out that the Registrar, Education has functions as specified by the Principal Act.

The amendment provides that the Registrar, Education is to have regard to the principles for education regulator best practice as set out in a Ministerial Instruction.

It is intended to ensure that the Registrar, Education is subject to regulator specific principles of best practice which largely relate to the quality with which he or she undertakes regulation. The purpose of the principles is to ensure a focus on outcomes as they relate to the Registrar's unique functions. The principles can be used to guide decision making and assist in the design of best practice approaches to regulation. An example of a principle is that the Registrar should undertake clear targeted and effective communication with regulated entities such as schools, students, and home educators.

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

**Clause 10: Sections 219A and 219B inserted (Ministerial statement of expectations) and (Treasurer's Instructions)**

**s219A - Ministerial Statement of Expectations**

The amendment inserts section 219A, which provides for the setting of an annual Ministerial Statement of Expectations to detail key policy expectations from the Minister in relation to matters such as compliance with principles of regulatory best practice, organisational values and culture, and Government education policies to which Registrar, Education is to have regard.

This is a key tool for the Minister to use to ensure better practice regulation by regulators with a focus on outcomes.

This statement is to be issued by the Minister annually prior to 31 December to provide guidance to the Registrar in developing its Corporate Plan for the following financial year. The Statement of Expectations may be developed by the Minister in consultation with the Registrar and key educational stakeholders.

The provision clarifies that the Minister may consult with the Registrar, or THEAC in the development of the Statement of Expectations. This aligns with THEAC's already established advisory function to the Minister in relation to home education generally in section 242 (b) of the Principle Act.

To maintain the independence of the Registrar this clause also prevents the Ministerial Statement of Expectations being used to stop the Registrar from performing a function, extending his or her functions, or directing the Registrar in relation to an individual case.

**s219B – Treasurer's Instructions**

The amendment also inserts section 219B which clarifies that the Treasurer's Instructions apply to the Registrar, Education.

The Registrar, Education continues as an independent statutory office supported by the Department of Education (the Department), through a framework agreement with the Secretary, Department of Education (Secretary) for the provision of staff to enable the regulator to perform its functions; funding from the Department of Education through a new Output Group (except where costs are recovered through fees); and the provision of corporate services.

It is likely that the Registrar and its staff, as State Service officers and employees, already work in accordance with the Treasurer's Instructions but best practice and the standard approach within Tasmania is that their application is clarified through portfolio legislation.

**Clause 11: Section 221 amended (Delegation by Registrar)**

**s221 – Delegation**

The current section 221 provides the power for the Registrar, Education to delegate his or her functions and powers under this Act.

The amendment expands this delegation power, to deliver on the policy intent articulated in the *Review of Education Regulation, Steering Committee Report (December 2020)*.

A function of the Registrar, Education is to support the NGSRB. Contemporary boards need to be able to delegate responsibility for the performance of their functions and exercise of their powers, in order to effectively undertake their role in oversight of the performance and governance of their organisation. Delegations are already used by the NGSRB. Although responsibility can be delegated, accountability ultimately remains with the delegator – the NGSRB.

The amendment provides that:

- The NGSRB may delegate (to the Registrar, Education) any of its functions and powers under this Act other than the power of delegation.
- The Registrar, Education may delegate to a State Service officer or State Service employee in the Department any of his or her functions or powers other than this power of delegation.
- That the Registrar is permitted to further delegate functions which the board has delegated to him or her by the board (noting that that Board can place limitations on this through its delegation process).

Delegation 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.

**Clause 12: Section 221A, 221B and 221C inserted (Responsibility of Registrar), (Committees) and (Independent Review of Registrar)**

**s221A – Responsibility of Registrar**

The amendment inserts section 221A into the Principal Act which clarifies the responsibility of the Registrar, Education to the Minister, to the NGSRB, and to the Secretary.

It provides for the Registrar, Education to be responsible to the:

- Minister under the *Education Act 2016* for the performance of functions and exercise of powers in relation to school absenteeism and home education;
- The NGSRB for any delegated functions in the *Education Act 2016*; and

- The Secretary for all other functions.

This includes clarification that the Minister and Secretary cannot seek to direct the Registrar, Education in relation to individual regulatory decisions.

The intention of this clause is to provide clarity regarding the responsibilities and accountabilities of the Registrar Education to the Minister and to the Secretary while maintaining the independence of the Registrar, Education.

#### **s221B - Committees**

The amendment provides for the insertion of section 221B in the Principal Act.

This provides for the Registrar, Education to create committees to assist in the performance of its functions, and to provide for stakeholder voice in the design and delivery of regulation. For example, one of the principles in the *Education Act 2016* relates to the importance of students being actively involved in decisions affecting their participation in education, while having regard to their age and understanding. This section enables the Registrar, to establish a committee comprised of children to help ascertain student's views in respect of regulatory matters.

#### **s221C – Independent Review of Registrar**

The amendment provides for the insertion of section 221C into the Principal Act.

Section 221C provides a mechanism for the Minister to request a review into the performance of the functions and powers of the Registrar, Education. This can be conducted as a routine review, for example every 5 years, which is a feature of best practice approaches to regulation, or to respond to concerns the Minister may hold in relation to the performance of functions and powers by the Registrar, Education.

The independent review may provide information to assist the Minister in developing a future Statement of Expectations, and to support the performance framework.

### **Clause 13: Section 224A and 224B inserted (Corporate Plan by Registrar) & (Framework Agreement by Registrar)**

#### **s224A - Corporate plan by Registrar**

The amendment inserts section 224A into the Principal Act. This requires the Registrar, Education to develop a Corporate Plan to be submitted annually and published. Corporate plans are to reflect the latest Ministerial Statement of Expectations.

It will include details such as the strategic direction, risk identification and management as well as outcome-based performance targets for annual approval by the Minister.

The format of the Corporate Plan will be specified in a Ministerial Instruction. It is anticipated it will be developed on a three-year cycle and submitted annually.

This supports the overall approach to an outcome-based focus for each of the regulators.

### S224B – Framework agreement by Registrar

The amendment inserts section 224B into the Principal Act. This provides for the development of a Framework Agreement between the Registrar, Education and the Secretary.

It includes matters such as staffing, budgets and the application of departmental policies.

This is intended to maintain the independence of advice by the Registrar while providing greater transparency and clarity on the Department's provision of staff, funding through a new Output Group (except where costs are recovered through fees), and the provision of corporate services.

It is anticipated that framework agreements will align to the performance cycle timeframe, with a rolling three-year framework agreement, which is to be reviewed annually to ensure it is fit for purpose.

#### **Clause 14: Section 227 substituted (Annual report by Registrar)**

### s227 – Annual report by Registrar

Section 227 of the Principal Act, currently requires the Registrar, Education to provide their Annual Report to the Secretary for inclusion in the Department's Annual Report.

The amendment provides for the Registrar, Education to instead provide an Annual Report to the Minister, and that it is to be tabled in Parliament. The Annual Report includes key details on achievement of targets set out in the Corporate Plan, the financial statements.

The Annual Report is part of the performance framework and provides accountability for performance of the Registrar against the target outcomes identified in its Corporate Plan.

The Registrar's Annual Report will incorporate the Annual Report to the Minister by the NGSRB. This combination reflects the shared staffing and small size of both entities and the function of the Registrar, Education in relation to supporting the NGSRB.

### s227A – Publication of review processes under Act

The amendment inserts Section 227A into the Principal Act, which strengthens the visibility of the appeals process for the Registrar, Education by requiring its publication on the Registrar's website.

The intention is to improve accountability for and transparency of regulatory decisions to the community and to individuals. This reflects a best practice approach to regulation as outlined in the Steering Committee report.

#### **Clause 15: Section 229 substituted (Continuation of Registration Board)**

Section 229 sets out the current membership of the NGSRB, which includes eight members appointed by the Minister.

The amendment specifies that the NGSRB will continue. This is supported by the savings and transitional arrangements, which specify that existing members continue until the expiry of their current instrument of appointment.

#### **Clause 16: Section 229A and 229B inserted (Membership of Registration Board) and (Independent review of Registration Board)**

### s229A – Membership of Registration Board

The amendment inserts section 229A into the Principal Act, which provides for the NGSRB to comprise five to seven members including the chairperson.

The purpose of this clause is to enhance independent advice from the NGSRB by removing the potential for conflict of interest from the current representative board structure.

These members are to be appointed by the Minister, following a thorough expression of interest process utilising newspaper publication and contemporary media to ensure that:

- members with suitable skills are selected;
- that they represent the diversity of the community; and
- hold a current registration to work with vulnerable people.

In addition to general board governance skills, specific skills relevant to the NGSRB's functions and strategic direction will be identified through a skills matrix developed and maintained by the board. The matrix will identify a range of skills, knowledge, experience, capabilities and attributes required to be used as vacancies arise.

The amendment also provides for the Minister to appoint a chairperson. This isn't necessarily from within the existing membership of the board. The intention is to increase the range of potential candidates for chairperson. The chairperson is considered a member of the Board, counts as one of the five to seven members and is subject to the same selection process in their appointment by the Minister.

In making the appointments the Minister is able to consult with and seek advice from the Boards themselves and from any council formed under section 249 of the *Education Act 2016*, such as the Education Regulation Advisory Council once established. The council will comprise the heads of the three school sectors – Independent Schools Tasmania, Catholic Education Tasmania and the Department of Education.

Through Ministerial Instructions the Minister is able to issue a guideline regarding how the selection and appointment process will be managed, including the respective roles and responsibilities of participants.

#### **s229B – Independent review of Registration Board**

The amendment inserts section 229B into the Principal Act, which provides a mechanism for the Minister to request a review into the performance of the functions and powers of the NGSRB. This review can be conducted as a routine review, for example every 5 years, which is a feature of best practice approaches to regulation, or to respond to concerns the Minister may hold in relation to the performance of functions and powers by the NGSRB.

The independent review may provide information to assist the Minister in developing a future Statement of Expectations, and to support the performance framework.

#### **Clause 17: Section 232 and 233 substituted (Financial Management of Registration Board) and (Annual Report to Minister)**

The amendment repeals both of these sections and inserts a number of sections including 231A, 231B, 231C, 231D, 231E, 231F, 231G, 232, 233, 233A into the Principal Act. The effect of each amendment is detailed below.

#### **s231A – Performance and exercise of functions and powers**

The amendment provides in section 231A that the NGSRB is to have regard to the principles for education regulator best practice as set out in a Ministerial Instruction.

It is intended to ensure that the NGSRB is subject to regulator specific principles of best practice which largely relate to the quality with which it undertakes regulation. The purpose of the principles is to ensure a focus on outcomes as they relate to the NGSRB's unique functions. The principles can be used to guide decision making and assist in the design of best practice approaches to regulation. An example of a principle is that the NGSRB should undertake clear targeted and effective communication with non government schools.

After extensive consultation with regulators about the application of these principles and their inclusion in the Bill it was determined that they would be better tailored for

each regulator by their inclusion in a Ministerial Instruction rather than in this amending Act.

#### **s231B – Responsibility of Registration Board**

The amendment provides in section 231B details of the various accountabilities of the NGSRB to the Minister and to the Secretary.

This includes clarification that the Minister and Secretary cannot seek to direct the NGSRB in relation to individual regulatory decisions.

The intention of this clause is to provide clarity regarding the responsibilities and accountabilities of the NGSRB to the Minister and to the Secretary while maintaining the independence of the NGSRB.

#### **s231C – Delegation by Registration Board**

The amendment inserts section 231C into the Principal Act the power for the NGSRB to delegate its functions or powers under the Principal Act.

Contemporary boards need to be able to delegate responsibility for the performance of their functions and exercise of their powers, in order to effectively undertake their role in oversight of the performance and governance of their organisation. Delegations are already used by the NGSRB.

Delegation 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.

#### **s231D – Ministerial statement of expectations**

The amendment inserts section 231D into the Principal Act the power for the Minister to set an annual Ministerial Statement of Expectations to detail their key policy expectations in relation to matters such as compliance with principles of regulatory best practice, organisational values and culture, and Government education policies to which the NGSRB is to have regard.

This is a key tool for the Minister to use to ensure better practice regulation by regulators with a focus on outcomes.

This statement is to be issued by the Minister annually prior to 31 December to provide guidance to the NGSRB in developing its Corporate Plan for the following financial year. The Statement of Expectations may be developed by the Minister in consultation with the NGSRB and key educational stakeholders.

To maintain the independence of the NGSRB this clause also prevents the Ministerial Statement of Expectations being used to stop the NGSRB from performing a function, extending its functions, or directing it in relation to an individual case.

#### **s231E – Corporate plan by Registration Board**

The amendment inserts section 231E into the Principal Act. This requires the NGSRB to develop a Corporate Plan to be submitted annually and published. Corporate plans are to reflect the latest Ministerial Statement of Expectations.

It will include details such as the strategic direction, risk identification and management as well as outcome-based performance targets for annual approval by the Minister.

The NGSRB's Corporate Plan will be incorporated into the Corporate Plan produced by the Registrar, Education. This combination reflects the shared staffing and small size of both entities and the function of the Registrar, Education in relation to supporting the NGSRB.



The format of the Corporate Plan can be specified in a Ministerial Instruction. It is anticipated it will be developed on a three-year cycle and submitted annually.

This supports the overall approach to an outcome-based focus for each of the regulators.

#### **s231F – Framework agreement by Registration Board**

The amendment inserts section 231F into the Principal Act. This provides for the development of a Framework Agreement between the NGSRB and the Secretary.

It includes matters such as staffing, budgets and the application of departmental policies.

This is intended to maintain the independence of advice by the NGSRB while providing greater transparency and clarity on the Department's provision of staff, funding through a new Output Group (except where costs are recovered through fees), and the provision of corporate services.

The section stipulates in subsection (2) that the framework agreement is to be incorporated into the one provided for the Registrar, Education under section 224B. This combination reflects the shared staffing and small size of both entities and the function of the Registrar, Education in relation to supporting the NGSRB.

It is anticipated that framework agreements will align to the performance cycle timeframe, with a rolling three-year framework agreement, which is to be reviewed annually to ensure it is fit for purpose.

#### **s231G – Committees**

The amendment inserts section 231G into the Principal Act which provides for the NGSRB to create committees to assist in the performance of its functions and provide for stakeholder voice.

#### **s232 – Financial management of Registration Board**

Section 232 currently mandates the NGSRB to keep correct accounting records.

The amendment inserts section 232 into the Principal Act which clarifies that the Treasurer's Instructions apply to the NGSRB. The NGSRB is established as a board supported by the Department of Education, through a framework agreement with the Secretary for the provision of staff to enable the regulator to perform its functions; funding from the Department of Education through a new Output Group (except where costs are recovered through fees); and the provision of corporate services.

It is likely that the NGSRB and its staff, as State Service officers and employees, already work in accordance with the Treasurer's Instructions but best practice and the standard approach within Tasmania is that their application is clarified through portfolio legislation.

#### **s233 – Annual report to [Minister] by Registration Board**

Section 233 currently requires the NGSRB to provide an Annual Report to the Secretary, for inclusion in the Department's Annual Report, as required under s233 of the *Education Act 2016* and s36 of the *State Service Act 2000*.

The amendment substitutes section 233 into the Principal Act which requires the NGSRB to provide an Annual Report to the Minister including key details on achievement of targets set out in the Corporate Plan, the financial statements, membership and remuneration of the board.

The Annual Report is part of the performance framework and provides accountability for performance of the NGSRB against the target outcomes identified in its Corporate Plan.

Section 233(2)(c) specifies that the NGSRB's Annual Report is to be incorporated into the Registrar, Education's Annual Report to the Minister. This combination reflects the

shared staffing and small size of both entities and the function of the Registrar, Education in relation to supporting the NGSRB.

**s233A – Publication of review processes**

The amendment inserts section 233A into the Principal Act which strengthens the visibility of the appeals process for the NGSRB by requiring its publication on the it's website.

The intention is to improve accountability for and transparency of regulatory decisions to the community and to individuals. This reflects a best practice approach to regulation as outlined in the Steering Committee report.

**Clause 18: Sections 260A and 260B inserted**

The amendment inserts sections 260A and 260B which provide for savings and transitional arrangements for NGSRB.

In particular section 260A provides that existing members of the NGSRB will continue until the expiry of their instrument of appointment. This may be after the commencement of this Bill.

The amendment in section 260B clarifies that any amendment of regulations does not prevent its repeal by other statutory rule.

**Clause 19: Schedule 2 amended (Provisions with Respect to Membership and Meetings of Registration Board)**

The current Schedule 2 provides a number of key features including that a members' term of office is an appointment up to three years. It also allows that members may hold another office and that the *State Service Act 2000* does not apply to a members' office.

The Schedule provides for the Minister to determine member remuneration, as well as the process involved in vacation of office through death, resignation or removal by the Minister.

It also provides for the Minister to fill a vacancy for the remainder of that term. The schedule also provides other key presumptions that relate to any legal proceedings involving the NGSRB.

Part 3 of the current Schedule 2 provides for meeting procedure in calling meetings, as well as surrounding the chairperson at meetings, and requires a quorum of four members for meetings. It allows flexible participation methods for meetings, as well as permitting resolutions to be signed by all members of the board.

The Schedule sets out an offence for members in failing to disclose an interest in decision making as a member.

The current section 16 of the Schedule sets out the entitlement of the Registrar, Education to attend all meetings of the NGSRB.

The schedule permits the NGSRB to regulate its own proceedings, and imposes the obligation to take minutes.

The amendment leaves a large number of the current provisions in Schedule 2 unchanged.

The amendment retitles section 2 from 'Term of office' to 'Term of appointment'

The amendment inserts the new Part 2, Section 2A which allows the Minister to reappoint members of the NGSRB as many times as he or she determines. The Minister may consider the advice from an advisory council established under section 249 in respect of member reappointments such as the Education Regulation Advisory Council, once established.

Other key changes in the amendment are the addition of a ground for removal in section 6 where a member does not maintain a current registration under the *Registration to Work with Vulnerable People Act 2013*, or has had any registration suspended or revoked.

The amendment removes section 7, which allows the Minister to fill any vacancies arising for the remainder of the members current term. This section is not required given that section 2 permits appointment for a term of up to 3 years as specified in a member's instrument of appointment.

The amendment modernises meeting participation to ensure that members participating in meetings with contemporary methods such as telephone, video conference or other approved methods are participating in a meeting in order to meet the quorum requirement of a majority of the members of the NGSRB.

The amendment retains the parameters that for a vote to be carried it must be decided by a majority of members present.

The amendment provides that Registrar, Education is to attend meetings of the Board, with the exception of the board being permitted to exclude their attendance. For example to discuss matters such as those relating to performance.

The schedule provides for the Minister to determine member remuneration. This will be managed in accordance with the Board Remuneration Guidelines maintained by the Department of Premier and Cabinet.

It is not generally intended to provide remuneration where a State Service Employee or Officer performs the role of a member in accordance with their duties, though there is provision for exceptions to be approved by the Premier. They may also receive reimbursement for reasonable expenses.

## OFFICE OF TASMANIAN ASSESSMENT, STANDARDS AND CERTIFICATION ACT 2003 AMENDED

### Clause 20: Principal Act

This clause provides that the Principal Act to which the amendments apply is the *Office of Tasmanian Assessment, Standards and Certification Act 2003*.

### Clause 21: Section 20 (long title) amended

The amendment provides for a new long title of the Principal Act, removing the reference to 'Office' and inserting reference to the newly formed 'Board'.

### Clause 22: Section 1 (short title) amended

The amendment provides for a new short title of the Principal Act, removing the reference to 'Office'.

### Clause 23: Section 3 amended (interpretation)

The current section provides for definitions of Office, Executive Officer and the Framework Advisory Council (FAC).

The amendment removes these definitions, which supports the shift from TASC being a single person regulator (executive officer), to being governed by a board. The removal of the definition of FAC recognises its removal as a legislated body.

In addition, the amendment provides for the designation of a Registrar, which will support the board in carrying out its functions and powers under the Principal Act.

### Clause 24: Section 6 inserted (application of principles)

The amendment inserts section 6 into the Principal Act. This provides that TASC is to have regard to the principles set out in section 4(1) of the *Education Act 2016* in the discharge of its functions.

The *Education Act 2016* principles provide a clear sense of purpose for what the Government is trying to achieve for learners and the Tasmanian community through the education portfolio. They were developed through extensive consultation with the community, debated in this parliament, and represent the headline statement for a contemporary and cohesive legislative framework shaped by evidence of what makes a difference to improving educational outcomes.

They are not intended to provide a checklist for every action undertaken by the TASC. Their application in this Act is intended to establish alignment of purpose for the TASC as a part of the broader education system, and to ensure a focus on delivering outcomes for learners, notwithstanding TASC's unique functions. The Principles can be used to guide decision making and assist in the design of best practice approaches to regulation.

**Clause 25: Part 2: Heading amended**

The amendment updates the heading in Part 2 of the Principal Act to refer to the Board, rather than the former Office of TASC.

**Clause 26: Part 2, Division 1: Heading amended**

The amendment updates the heading in Part 2, Division 1 of the Principal Act to refer to the Board, rather than the former Office of TASC.

**Clause 27: Section 7 and 8 substituted (Tasmanian Assessment, Standards and Certification Board) and (Membership of Board)**

The current section 7 of the Principal Act establishes the Office of TASC as a body corporate, following the entry into force of the *Tasmanian Qualifications Amendment Act 2015*.

The current section 8 of the Principal Act provides that the Office of TASC is established and comprises the Executive Officer.

The amendment clarifies in section 7 that the Board is established as a body corporate and removes the reference to the above Amendment Act.

The amendment in section 8 establishes the membership of the TASC Board. It provides for the TASC Board to comprise five to seven members including the chairperson.

These members are to be appointed by the Minister, following a thorough expression of interest process utilising newspaper publication and contemporary media to ensure that:

- members with suitable skills are selected;
- they represent the diversity of the community; and
- hold a current registration to work with vulnerable people.

In addition to general board governance skills, specific skills relevant to the Board's functions and strategic direction will be identified through a skills matrix developed and maintained by each of the boards. The matrix will identify a range of skills, knowledge, experience, capabilities and attributes required to be used as vacancies arise.

The amendment also provides for the Minister to appoint a chairperson. This isn't necessarily from within the existing membership of the board. The intention is to increase the range of potential candidates for chairperson. The chairperson is

considered a member of the Board, counts as one of the five to seven members and is subject to the same selection process in their appointment by the Minister.

In making the appointments the Minister is able to consult with and seek advice from the Boards themselves and from any council formed under section 249 of the *Education Act 2016*, such as the Education Regulation Advisory Council once established. The council will comprise the heads of the three school sectors – Independent Schools Tasmania, Catholic Education Tasmania and the Department of Education.

Through Ministerial Instructions the Minister is able to issue a guideline regarding how the selection and appointment process will be managed, including the respective roles and responsibilities of participants.

**Clause 28: Section 9 amended (Objectives of Board)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 29: Section 10 amended (Functions of Board)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 30: Section 11 amended (Powers of Board)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 31: Section 11A inserted (Performance and exercise of functions and powers)**

The amendments insert section 11A into the Principal Act.

The amendment provides that TASC, its staff and committees are to have regard to the principles for education regulator practice as set out in a Ministerial Instruction.

It is intended to ensure that TASC be subject to regulator specific principles of best practice which largely relate to the quality with which it undertakes regulation. The purpose of the principles is to ensure a focus on outcomes as they relate to TASC's unique functions. The principles can be used to guide decision making and assist in the design of best practice approaches to regulation. For example the Board should undertake clear targeted and effective communication with regulated entities such as schools, teachers, and students.

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

**Clause 32: Section 12, 13 and 14 substituted**

**s12 - Delegation**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

The current section 12 provides the power for TASC to delegate its functions and powers.

Boards need to be able to delegate responsibility for the performance of their functions and exercise of their powers, in order to effectively undertake their role in

oversight of the performance and governance of their organisation. Delegations are already used by the TRB and NGSRB.

The amendment provides that:

- the Board may delegate to the Registrar any of its functions and powers under this Act other than the power of delegation;
- the Registrar may delegate to a State Service officer or State Service employee in the Department any of his or her functions or powers other than this power of delegation; and
- the Registrar is permitted to further delegate functions which the board has delegated to him or her by the board (noting that that Board can place limitations on this through its delegation process).

Delegation 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.

### **s13 – Ministerial statement of expectations**

Section 13 of the Principal Act sets out the current ministerial direction power in relation to TASC which may relate to the Minister's policy expectations.

The amendment substitutes the new section 13 which provides for the setting of an annual Ministerial Statement of Expectations to detail key policy expectations from the Minister in relation to matters such as compliance with principles of regulatory best practice, organisational values and culture and Government education policies to which TASC is to have regard.

This is a key tool for the Minister to use to ensure better practice regulation by regulators with a focus on outcomes.

This statement is to be issued by the Minister annually prior to 31 December to provide guidance to the TASC Board in developing its Corporate Plan for the following financial year. The Statement of Expectations may be developed by the Minister in consultation with the TASC Board and key educational stakeholders.

To maintain the independence of the TASC Board this clause also prevents the Ministerial Statement of Expectations being used to stop the TASC Board from performing a function, extending its functions, or directing the TASC Board in relation to an individual case.

### **s13A – Corporate plan by Board**

The amendment also inserts the new Section 13A which provides for TASC to develop a Corporate Plan to be submitted annually and published. Corporate plans are to reflect the latest Ministerial Statement of Expectations.

It will include details such as the strategic direction, risk identification and management as well as outcome-based performance targets for annual approval by Minister.

The format of the Corporate Plan can be specified in a Ministerial Instruction. It is anticipated it will be developed on a three-year cycle and submitted annually.

This supports the overall approach to an outcome-based focus for each of the regulators.

### **s14 – Responsibility of Board**

Section 14 of the Principal Act currently sets out the independence of the TASC office from the Secretary.

The amendment replaces the existing section 14. It clarifies the responsibility of the board to the Minister and Secretary. This includes clarification that the Minister and

Secretary cannot seek to direct the TASC Board in relation to individual regulatory decisions.

The intention of this clause is to provide clarity regarding the responsibilities and accountabilities of the TASC Board to the Minister and to the Secretary while maintaining the independence of the TASC Board.

#### s/14A Independent review of Board

The amendment provides for the insertion of Section 14A into the Principal Act.

This creates a mechanism for the Minister to request a review into the performance of the functions and powers of TASC. This review can be conducted as a routine review, for example every 5 years, which is a feature of best practice approaches to regulation, or to respond to concerns the Minister may hold in relation to the performance of functions and powers by the TASC Board.

The independent review may provide information to assist the Minister in developing a future statement of expectations, and to support the performance framework.

#### Clause 33: Part 2, Division 3 substituted amended

##### Division 3 – Registrar and staff of Board

The current Part 2, Division 3 provides for the current Executive Officer, TASC role.

The amendment replaces this with a TASC Board supported by a Registrar. In addition, it allows for the provision of staff from the Department or a state service agency and stipulates details around appointment of authorised officers.

##### s/16 - Registrar

The amendment provides for the new section 16 of the Principal Act, this clarifies that the Registrar may be appointed under the *State Service Act 2000*, or that a state service officer or employee may be assigned the duties in conjunction with their State Service employment. It also clarifies that this person cannot be a member of the TASC Board.

##### s/17 – Roles, functions and duties of Registrar

The amendment provides for a new section 17 of the Principal Act. This clarifies that the Registrar is responsible to the:

- TASC board for its general administration and any delegated functions; and
- The Secretary for all other functions.

For example, the Registrar is responsible to the Secretary under the *State Service Act 2000* for staffing and human resources functions.

This clause helps give effect to the recommendations of the Steering Committee in its report to Government on the *Review of Education Regulation (December 2020)* to retain each regulator as a separate entity responsible for regulatory decision making and combine the responsibility for administrative outcomes and delivery of functions under a single Director Education Regulation, that would be appointed to assume the functions and powers of the Registrar Education, the TASC Registrar and the TRB Registrar.

This recommendation was prompted by:

- 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

- the need for increased leadership and support for senior staff within the regulators.

#### s18 – Staff

This amendment replaces 'Office' with 'Board' in the previous provision from section 17, which provides for the sharing of staff between the Department or a State Service agency and TASC.

#### s19 – Authorised officers

The amendment replaces 'Office' with 'Board' in the previous provision from section 19, which provides for the appointment of authorised officers.

#### **Clause 34: Section 20 amended (Committees)**

The current section 20 of the Principal Act provides the Office may establish committees.

The amendment provides for a power for TASC to create committees, consistent with the other education regulators.

The amendment removes any explicit reference to remuneration in the section. Noting that there is provision for board remuneration and other policy mechanisms for payment to committees if required.

The intent of this refined committee power is to enable the newly formed skills-based board to develop a fit for purpose governance structure to support the discharge of its functions, and gather important stakeholder voice for example from sectors and teachers.

One of the principles in the *Education Act 2016* relates to the importance of students being actively involved in decisions affecting their participation in education, while having regard to their age and understanding. The Bill enables TASC to establish a committee comprised of children to help ascertain student's views in respect of regulatory matters.

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

#### **Clause 35: Section 22 amended (Authorised deposit-taking institution accounts)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

#### **Clause 36: Section 23 amended (Accounting records)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

The amendment revises section 23 of the Principal Act to clarify that the Treasurer's Instructions apply to TASC.

TASC is established as an independent statutory office supported by the Department through a framework agreement with the Secretary for the provision of staff to enable the regulator to perform its functions; funding from the Department of Education through a new Output Group (except where costs are recovered through fees); and the provision of corporate services.

It is likely that the TASC and its staff, as State Service officers and employees, already work in accordance with the Treasurer's Instructions but best practice and the standard



approach within Tasmania is that their application is clarified through portfolio legislation.

**Clause 37: Section 24 substituted (Annual Report to Minister) and (Framework Agreement by board)**

**s24 – Annual report to Minister**

Section 24 of the Principal Act currently provides for TASC to submit an Annual Report to the Secretary.

The amendment provides for TASC to provide an Annual Report to the Minister including key details on the achievement of targets set out in the corporate plan, the financial statements, membership and remuneration of the board. This requirement will be further clarified in Ministerial Instructions.

The Annual Report is part of the performance framework and provides accountability for performance of the TASC against the target outcomes identified in its corporate plan.

**s24AA – Framework agreement by Board**

The amendment also inserts section 24AA of the Principal Act which provides for the development of a Framework Agreement between TASC Board and the Secretary.

It includes matters such as staffing, budgets and the application of departmental policies.

This is intended to maintain the independence of advice by the NGSRB while providing greater transparency and clarity on the Department's provision of staff, funding through a new Output Group (except where costs are recovered through fees), and the provision of corporate services.

It is anticipated that framework agreements will align to the performance cycle timeframe, with a rolling three-year framework agreement, which is to be reviewed annually to ensure it is fit for purpose.

**Clause 38: Section 24E amended (Development and review of senior secondary accreditation framework)**

The Current Act in section 24E requires the development and review of a senior secondary accreditation framework, which is to be developed following consultation with the Framework Advisory Council (FAC).

The amendment removes reference to the FAC, however based on feedback through consultation, now recognises the importance of consultation by the TASC Board with the three education sectors (catholic, independent and government) and schools in developing the senior secondary accreditation framework.

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with reference to 'Board'

**Clause 39: Section 24F amended (Senior secondary accreditation framework)**

Section 24F of the Principal Act currently provides for a process of the Minister approving the Senior Secondary Accreditation Framework once developed by the FAC.

The amendment removes reference to the legislatively abolished FAC, however like 24E recognises the importance of consultation with the three education sectors (catholic, independent and government), and schools, by the Board in implementing the senior secondary accreditation framework.

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

- Clause 40: Sections 24G 24H and 24I repealed**
- The current provisions set out that the Office of TASC must exercise its functions and powers in accordance with the senior secondary accreditation framework as set out by the Framework Advisory Council (FAC).
- The amendment removes reference to the legislatively abolished FAC.
- Clause 41: Section 25 amended (Application for accreditation of senior secondary course)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 42: Section 26 amended (Accreditation of senior secondary course)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references of 'Office' with reference to 'Board'
- Clause 43: Section 27 amended (Term of accreditation of accredited senior secondary course)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 44: Section 28 amended (Renewal of accreditation as accredited senior secondary course)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 45: Section 29 amended (Cancellation of accreditation as accredited senior secondary course)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 46: Section 31 amended (Assessment of accredited senior secondary courses)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 47: Section 32 amended (Conferral or issue of approved qualification)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 48: Section 33 amended (Standards for provision and assessment of accredited senior secondary courses)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 49: Section 33A amended (Examination or assessment of senior secondary education)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 50: Section 33B amended (Senior secondary education qualification)**

- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 51: Section 33C amended (Standards and qualifications for senior secondary education)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 52: Section 33D amended (Application for registration of student exchange organisation)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 53: Section 33E amended (Registration as registered student exchange organisation)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 54: Section 33F amended (Registration (student exchange organisation) certificate)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 55: Section 33I amended (Amendment of registration)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 56: Section 33J amended (Renewal of registration)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 57: Section 33L amended (Guidelines)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 58: Section 33M amended (Direction to registered student exchange organisation)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 59: Section 33N amended (Cancellation or suspension of registration)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 60: Section 35 amended (Application for accreditation of course)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 61: Section 36 amended (Accreditation of higher education course)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 62: Section 37 amended (Term of accreditation of accredited higher education course)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 63: Section 38 amended (Accredited higher education course subject to conditions)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 64: Section 40 amended (Cancellation of accreditation as accredited higher education course)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 65: Section 42 amended (Application for registration)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 66: Section 43 amended (Registration as registered higher education provider)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 67: Section 44 amended (Registration subject to conditions)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 68: Section 45 amended (Registration certificate)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 69: Section 48 amended (Amendment of registration)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 70: Section 49 amended (Renewal of registration)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 71: Section 51 amended (Direction to registered higher education provider)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

- Clause 72: Section 52 amended (Cancellation or suspension of registration)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 73: Section 55A amended (Application for approval)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 74: Section 55B amended (Approval as approved overseas higher education provider)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 75: Section 55C amended (Approval subject to conditions)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 76: Section 55D amended (Approval certificate)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 77: Section 55G amended (Amendment of approval)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 78: Section 55H amended (Renewal of approval)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 79: Section 55J amended (Direction to approved overseas higher education provider)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 80: Section 55K amended (Cancellation of approval of higher education course)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 81: Section 55L amended (Cancellation or suspension of approval of approved overseas higher education provider)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 82: Section 55N amended (Application to be self-accrediting higher education provider)**

- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 83: Section 55O amended (Grant of status of self-accrediting higher education provider)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 84: Section 55P amended (Grant of status subject to conditions)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 85: Section 55Q amended (Certificate of self-accrediting status)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 86: Section 55T amended (Amendment of grant of status)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 87: Section 55U amended (Renewal of grant of status)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 88: Section 55W amended (Direction to self-accrediting higher education provider)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 89: Section 55X amended (Cancellation or suspension of grant of status)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 90: Section 55ZG amended (Offences relating to use of "university", &c.)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 91: Section 55ZH amended (Application for accreditation of other education course)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 92: Section 55ZI amended (Accreditation of other education course)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 93: Section 55ZJ amended (Term of accreditation of other education course)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 94: Section 55ZL amended (Cancellation of accreditation as accredited other education course)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 95: Section 55ZN amended (Standards for provision and assessment of accredited other education courses)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 96: Section 55ZP amended (Examination or assessment of other education)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 97: Section 55ZQ amended (Other education qualification)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 98: Section 55ZR amended (Standards and qualification for other education)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 99: Section 55ZT amended (Application for accreditation of education program)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 100: Section 55ZU amended (Accreditation of education program)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 101: Section 55ZV amended (Term of accreditation of accredited education program)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 102: Section 55ZW amended (Accredited education program subject to conditions)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 103: Section 55ZY amended (Cancellation of accreditation as accredited education program)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 104: Section 55ZZ amended (Application for registration)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 105: Section 55ZZA amended (Registration as registered education (overseas students) provider)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 106: Section 55ZZB amended (Registration subject to conditions)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 107: Section 55ZZC amended (Registration (overseas students) certificate)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 108: Section 55ZZF amended (Amendment of Registration)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 109: Section 55ZZG amended (Renewal of Registration)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 110: Section 55ZZI amended (Direction to registered education (overseas students) provider)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 111: Section 55ZZJ amended (Cancellation or suspension of registration)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.



- Clause 112: Section 55ZZL amended (Application for recognition of other qualifications)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 113: Section 55ZZM amended (Recognition of other qualification)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 114: Section 55ZZN amended (Cancellation of recognition)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 115: Section 55ZZO amended (Application for recommendation for establishment of new university)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 116: Section 55ZZP amended (Initial assessment of application)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 117: Section 55ZZQ amended (Investigation of application)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 118: Part 4D, Division 3: Heading amended (Recommendation of Board)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 119: Section 55ZZR amended (Recommendation of Board)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 120: Section 56 amended (Investigations)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 121: Section 57 amended (Inspections)**  
To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

- Clause 122: Section 58 amended (Documents)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 123: Section 59 amended (Use of document or information obtained)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 124: Section 60 amended (Review of decisions)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 125: Section 60A inserted (Publication of review processes under Act)**
- The amendment inserts section 60A into the Principal Act, which strengthens the visibility of the appeals process for the TASC Board by requiring it to publish them on its website.
- The intention is to improve accountability for and transparency of regulatory decisions to the community and to individuals. This reflects a best practice approach to regulation as outlined in the Steering Committee report.
- Clause 126: Section 61 amended (Registers)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 127: Section 62 amended (Manner of keeping registers)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 128: Section 63 amended (Access to registers)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 129: Section 64 amended (Rules)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 130: Section 64A amended (Consolidated statements of qualifications)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

- Clause 131: Section 64B amended (Providing information to authorities, &c., under corresponding laws)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 132: Section 64C amended (Registered training organisations to provide information to Board)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 133: Section 65 amended (Offences relating to exercise of powers by Board or authorised officer)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 134: Section 65A inserted (Immunity from liability)**
- The amendment inserts the new section 65A into the Principal Act.
- This section serves to provide protections for TASC Board members acting in good faith in the exercise of their functions and powers.
- The amendment is intended to replicate the existing protections for members of the NGRB and the TRB in their respective Acts. This will ensure that skills-based members are attracted to the TASC Board, and will contribute towards the shift to outcomes focus for the TASC Board.
- Clause 135: Section 67 amended (*Land Acquisition Act 1993* does not apply)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 136: Section 68 amended (Judicial notice of certain signatures)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 137: Section 69 amended (Presumptions)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.
- Clause 138: Section 70 amended (Evidentiary matters)**
- To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 139: Section 71 amended (Service of documents)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 140: Section 72 amended (Regulations)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Principal Act, replacing references to 'Office' with references to 'Board'.

**Clause 141: Sections 73B and 73C inserted (Savings and transitional provisions consequent on Education Legislation Amendment (Education Regulation) Act 2021) and (Amendment of subordinate legislation not bar to further amendment or repeal)**

The amendments provide for savings and transitional arrangements for the current Office of TASC.

**s73B - Savings and transitional provisions consequent on Education Legislation Amendment (Education Regulation) Act 2021**

Section 73B provides for the current Executive Officer to assume the functions of the Registrar, until a Registrar is appointed.

The amendment also provides in section 73B that any accreditation, determination, document, rules or application issued by the Office of TASC, or still valid from the former Tasmanian Qualifications Authority (TQA) continues in force until modified or revoked by the newly established TASC Board.

The section also ensures that the Department of Education or other staff assigned to assist TASC continue to be assigned on the same terms and conditions past the commencement of the Amendment Act. This continuation is also provided for Authorised Officers under the Principal Act.

**S73C - Amendment of subordinate legislation not bar to further amendment or repeal**

This amendment inserts a standard provision which ensures it does not prevent subsequent variations to subordinate legislation.

**Clause 142: Schedule 1 inserted (Membership and Meetings of Board)**

The amendment inserts Schedule 1 which provides for operational details to support the establishment of the TASC Board.

The amendment provides details for membership of the board including that appointment terms not exceed three years. The Minister may set a maximum number of times a member can be reappointed.

The amendment also allows that members may hold another office and that the *State Service Act 2000* does not apply to a member's office.

The amendment provides for the Minister to determine member remuneration. This will be managed in accordance with the Board Remuneration Guidelines maintained by the Department of Premier and Cabinet.

It is not generally intended to provide remuneration where a State Service Employee or Officer performs the role of a member in accordance with their duties, though there is provision for exceptions to be approved by the Premier. They may also receive reimbursement for reasonable expenses.

Part 3, Section 3 requires a quorum, of a majority of the members of the TASC Board in order to hold meetings and also sets the voting threshold of a majority of those participating in a meeting.

Part 3, Section 4 provides for meeting procedure in calling meetings, as well as surrounding the chairperson at meetings. It allows flexible participation methods for meetings.

The amendment modernises meeting participation to ensure that members participating in meetings with contemporary methods such as telephone, video conference or other approved methods are participating in a meeting in order to meet the quorum requirement of a majority of the members of the TASC Board.

The amendment permits resolutions to be signed by all members of the TASC Board.

The amendment sets out an offence for members in failing to disclose an interest in decision making as a member.

The amendment makes it clear that members of the TASC Board must have a current registration under the Registration to Work with Vulnerable People Act 2013.

It is intended that the Registrar is to attend meetings of the TASC Board, with the exception of the Board being permitted to exclude their attendance for a period of time to discuss matters relating to their performance.

The amendment also imposes an obligation on the TASC Board to keep minutes.

The amendment also sets out the chairperson must give reasonable notice of a meeting.

The amendment sets out quorum requirements which include half the membership plus one. And provides voting parameters for members participating. The Bill also permits members to participate in meetings by telephone, video conference or any other approved method of communication.

The schedule permits resolutions to be passed by board members in the absence of a meeting.

In accordance with good governance principles the Bill sets out an offence for a board member where they fail to declare a direct or indirect interest in a decision or deliberation by the TASC Board.

## TEACHERS REGISTRATION ACT 2000 AMENDED

### Clause 143: Principal Act

This clause provides that the Principal Act to which the amendments apply is the *Teachers Registration Act 2000*.

### Clause 144: Section 3 amended (Interpretation)

Section 3 of the Principal Act provides for definitions of phrases within the Act.

The amendment removes the definition of Executive Officer and inserts the definition of the Registrar, which will be appointed under section 7C to support the Teachers Registration Board (TRB).

### Clause 145: Section 4A inserted (Application of Principles)

The amendment inserts Section 4A into the Principal Act which provides that the TRB is to have regard to the principles set out in section 4(1) of the *Education Act 2016* in the discharge of its functions.

The *Education Act 2016* principles provide a clear sense of purpose for what the Government is trying to achieve for learners and the Tasmanian community through the education portfolio. They were developed through extensive consultation with the community, debated in this parliament, and represent the headline statement for a

contemporary and cohesive legislative framework shaped by evidence of what makes a difference to improving educational outcomes.

They are not intended to provide a checklist for every action undertaken by the TRB. Their application in this Act is intended to establish alignment of purpose for the TRB as a part of the broader education system, and to ensure a focus on delivering outcomes for learners, notwithstanding the TRB's unique functions. The Principles can be used to guide decision making and assist in the design of best practice approaches to regulation.

**Clause 146: Section 6 substituted (Membership of Board)**

The current section 6 of the Principal Act sets out the current membership of the TRB, which includes twelve members appointed by the Minister.

The purpose of this clause is to enhance independent advice from the TRB by removing the potential for conflict of interest from the current representative board structure.

The amendment provides for the TRB to comprise five to seven members including the chairperson.

These members are to be appointed by the Minister, following a thorough expression of interest process utilising newspaper publication and contemporary media to ensure that:

- members with suitable skills are selected;
- they represent the diversity of the community; and
- hold a current registration to work with vulnerable people.

In addition to general board governance skills, specific skills relevant to the Board's functions and strategic direction will be identified through a skills matrix developed and maintained by the board. The matrix will identify a range of skills, knowledge, experience, capabilities and attributes required to be used as vacancies arise.

The amendment also provides for the Minister to appoint a chairperson. This isn't necessarily from within the existing membership of the board. The intention is to increase the range of potential candidates for chairperson. The chairperson is considered a member of the Board, counts as one of the five to seven members and is subject to the same selection process in their appointment by the Minister.

In making the appointments the Minister is able to consult with and seek advice from the Boards themselves and from any council formed under section 249 of the *Education Act 2016*, such as the Education Regulation Advisory Council once established. The council will comprise the heads of the three school sectors – Independent Schools Tasmania, Catholic Education Tasmania and the Department of Education.

Through Ministerial Instructions the Minister is able to issue a guideline regarding how the selection and appointment process will be managed, including the respective roles and responsibilities of participants.

**Clause 147: Sections 7AA and 7AB inserted (Performance and exercise of functions and powers) and (Responsibility of Board)**

**s7AA – Performance and exercise of functions and powers**

The amendment inserts section 7AA into the Principal Act which provides that the TRB is to have regard to the principles for education regulator best practice as set out in a Ministerial Instruction.

It is intended to ensure that the TRB is subject to regulator specific principles of best practice which largely relate to the quality with which it undertakes regulation. The purpose of the principles is to ensure a focus on outcomes as they relate to the TRB's unique functions. The principles can be used to guide decision making and assist in the

design of best practice approaches to regulation. An example of a principle is that the TRB should undertake clear targeted and effective communication with regulated entities such as teachers.

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

#### s7AB – Responsibility of Board

The amendment inserts section 7AB into the Principal Act which clarifies the TRB's responsibility to the Minister and to the Secretary.

This includes clarification that the Minister and Secretary cannot seek to direct the TRB in relation to individual regulatory decisions.

The intention of this clause is to provide clarity regarding the responsibilities and accountabilities of the TRB to the Minister and to the Secretary while maintaining the independence of the TRB.

### **Clause 148: Sections 7B and 7C substituted (Delegation) and (Registrar)**

#### s7B – Delegation

The current section 7B provides the power for the TRB to delegate its functions and powers under this Act.

The amendment expands this delegation power to give effect to the recommendations of the Steering Committee in its report to Government on the *Review of Education Regulation (December 2020)* to retain each regulator as a separate entity responsible for regulatory decision making and combine the responsibility for administrative outcomes and delivery of functions under a single Director Education Regulation, that would be appointed to assume the functions and powers of the Registrar Education, the TASC Registrar and the TRB Registrar.

Contemporary boards need to be able to delegate responsibility for the performance of their functions and exercise of their powers, in order to effectively undertake their role in oversight of the performance and governance of their organisation. Delegations are already used by the TRB. Although responsibility can be delegated, accountability ultimately remains with the delegator – the Board.

The amendment provides that:

- The Board may delegate (to the Registrar) any of its functions and powers under this Act other than the power of delegation.
- The Registrar may delegate to a State Service officer or State Service employee in the Department any of his or her functions or powers other than this power of delegation.
- That the Registrar is permitted to further delegate functions which the board has delegated to him or her by the board (noting that that Board can place limitations on this through its delegations process).

Delegation 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.

#### s7C – Registrar

The current section 7C of the Principal Act provides for the appointment of the Executive Officer, to the TRB, in accordance with the *State Service Act 2000*.

The amendment provides clarification that a Registrar may be appointed under the *State Service Act 2000*, or that a State Service officer or employee may be assigned the duties in conjunction with their State Service employment.

The amendment prevents a current TRB board member being appointed as the Registrar.

**Clause 149: Section 7D amended (Role, functions and powers of Registrar)**

The current section 7D of the Principal Act sets out the functions and powers of the Executive Officer, TRB.

To give effect to the change in governance structure for TRB with the Executive Officer being replaced by a set of functions and powers held by the Registrar, the amendment makes a number of minor terminology changes to the Principal act, replacing references of 'Executive Officer' with reference to 'Registrar'.

**Clause 150: Sections 8,9 and 10 substituted**

**s8 - Staff**

The current section 8 of the Principal Act, sets out for the sharing of staff between the Department and the TRB.

The amendment simplifies section 8 in line with other regulators, ensuring that staff can be provided by the Secretary to complete the TRB's functions and powers. It also clarifies that both state service officers and employees may be provided to the TRB.

**s9 - Committees**

The current section 9 of the Principal Act, sets out the power for the TRB to establish committees to assist in the performance of the TRB's functions.

The amendment provides for the TRB to create committees to capture stakeholder voice and to enable the newly formed skills-based board to develop a fit for purpose governance structure to support the discharge of its functions including inquiries.

**s10 – Remuneration of committee members**

The current section 10 of the Principal Act provides for the Ministerial Directions power, which is no longer required due to a refined Ministerial Instructions power (refer to clause 6).

The amendment in section 10 provides for remuneration of committee members, given the large workload for board members surrounding investigations and committees of inquiry, it may be appropriate for remuneration to be provided in order to provide this function. This has been a historical issue for the Board with many members and teachers volunteering their time.

Unlike the TRB where a head of power has been provided in section 10 other education regulators can remunerate committee members, if required, in alignment with existing Government Policy.

**s10A – Ministerial statement of expectations**

The amendment inserts section 10A into the Principal Act which provides for the setting of an annual Ministerial Statement of Expectations to detail key policy expectations from the Minister in relation to matters such as compliance with principles of regulatory best practice, organisational values and culture, and Government education policies to which they are to have regard.

This is a key tool for the Minister to use to ensure better practice regulation by regulators with a focus on outcomes.



This statement is to be issued by the Minister annually prior to 31 December to provide guidance to the Education Regulator in developing its Corporate Plan for the following financial year. The Statement of Expectations may be developed by the Minister in consultation with the TRB and key educational stakeholders.

To maintain the independence of the TRB this clause also prevents the Ministerial Statement of Expectations being used to stop the TRB from performing a function, extending its functions, or directing the TRB in relation to an individual case.

#### **s10B – Corporate plan by Board**

The amendment inserts section 10B into the Principal Act, which provides for the TRB to develop a Corporate Plan to be submitted annually and published. Corporate plans are to reflect the latest Ministerial Statement of Expectations.

It will include details such as the strategic direction, risk identification and management as well as outcome-based performance targets for annual approval by Minister.

The format of the Corporate Plan can be specified in a Ministerial Instruction. It is anticipated it will be developed on a three-year cycle and submitted annually.

This supports the overall approach to an outcome-based focus for each of the regulators.

#### **s10C – Framework Agreement by Board**

The amendment inserts section 10C into the Principal Act. This provides for the development of a Framework Agreement between the TRB and the Secretary.

It includes matters such as staffing, budgets and the application of departmental policies.

This is intended to maintain the independence of advice by the TRB while providing greater transparency and clarity on the Department's provision of staff, funding through a new Output Group (except where costs are recovered through fees), and the provision of corporate services.

#### **s10D – Independent review of Board**

The amendment inserts section 10D into the Principal Act, which provides a mechanism for the Minister to request a review into the performance of the functions and powers of the TRB. This review can be conducted as a routine review, for example every 5 years, which is a feature of best practice approaches to regulation, or to respond to concerns the Minister may hold in relation to the performance of functions and powers by the TRB.

The independent review may provide information to assist the Minister in developing a future Statement of Expectations, and to support the performance framework.

#### **Clause 151: Section 21 amended (Committee of inquiry)**

The current provision requires that any committee of inquiry into disciplinary action or fitness to teach inquiry includes a member of the board.

The amendment removes this requirement noting that the board may include a member on the committee if it considers it necessary.

This provision has been amended to ensure that a reduced board size does not limit the capacity of the board to manage investigations/inquiries.

#### **Clause 152: Section 29A inserted (Publication of review processes under Act)**

The amendment inserts section 29A into the Principal Act, which strengthens the visibility of the appeals process for each Regulator by requiring them to publish it on their respective websites.

The intention is to improve accountability for and transparency of regulatory decisions to the community and to individuals. This reflects a best practice approach to regulation as outlined in the Steering Committee report.

**Clause 153: Section 33 substituted (Annual Report to Minister)**

Section 33 of the Principal Act currently requires the TRB to provide an Annual Report to the Minister by 30 April each year based on calendar year activities and including the previous financial year's statements.

The amendment provides for the TRB to provide an Annual Report to the Minister including key details on achievement of targets set out in the Corporate Plan, the financial statements, membership and remuneration of the board. This requirement will be further clarified in Ministerial Instructions.

The Annual Report is part of the performance framework and provides accountability for performance of the TRB against the target outcomes identified in its Corporate Plan.

**Clause 154: Section 34AA inserted (Treasurer's Instructions)**

The amendment inserts section 34AA into the Principal Act, which clarifies that the Treasurer's Instructions apply to the TRB.

The TRB is established as an independent statutory office supported by the Department of Education, through an agreement with the Secretary for the provision of staff to enable the regulator to perform its functions; funding from the Department of Education through a new Output Group (except where costs are recovered through fees); and the provision of corporate services.

It is likely that the TRB and its staff, as State Service officers and employees, already work in accordance with the Treasurer's Instructions but best practice and the standard approach within Tasmania is that their application is clarified through portfolio legislation.

Clause 155: Sections 42 and 43 inserted (Transitional provisions consequent on *Education Legislation Amendments (Education Regulation) Act 2021*) and (Amendment of subordinate legislation not bar to further amendment or repeal)

*s42 - Transitional provisions consequent on Education Legislation Amendments (Education Regulation) Act 2021*

The amendment inserts section 42 into the Principal Act which ensures that members appointments continue until their current expiry date as if the Amending Act had not been passed, on the same conditions.

*s43 - Amendment of subordinate legislation not bar to further amendment or repeal*

The amendment inserts section 43 into the Principal Act, which clarifies that any amendment of regulations does not prevent its repeal by other statutory rule.

Clause 156: **Schedule 1 amended (Membership and meetings of Board)**

Schedule 1 of the Principal Act currently sets out some details for members of the TRB including a membership term of three years, provisions for removal of members', filling of vacancies and other procedural meeting related matters including quorum and minutes.

The amendment sets out key details for membership of the board including setting out appointment terms for members not to exceed three years. Details that a minister may set a maximum number of terms a member can receive to be determined by the Minister.

The schedule sets out details around remuneration which are to be set by the Minister. It is not generally intended to provide remuneration where a State Service Employee or Officer performs the role of a member in accordance with their duties, though there is provision for exceptions to be approved by the Premier. They may also receive reimbursement for reasonable expenses.

The amendment makes it clear that members of the TRB must have a current registration under the *Registration to Work with Vulnerable People Act 2013*.

The amendment also sets out the chairperson must give reasonable notice of a meeting.

The amendment sets out quorum requirements which include half the membership plus one. And provides voting parameters for members participating. The Bill also permits members to participate in meetings by telephone, video conference of any other approved method of communication.

The schedule permits resolutions to be passed by board members in the absence of a meeting.

It is intended that the Registrar is to attend meetings of the Board, with the exception of the board being permitted to exclude their attendance for a period of time to discuss matters relating to their performance.

The amendment also imposes an obligation to keep minutes.

## ADMINISTRATIVE ARRANGEMENTS ORDER (NO.2) 2021 AMENDED

Clause 157: **Principal Order**

This clause provides that the Principal Order to which the amendments apply is the *Administrative Arrangements Order 2021*.

Clause 158: **Schedule 1 amended (Administration of enactments)**

The amendment corrects the reference of the *Office of Tasmanian Assessment, Standards and Certification Act 2003* to the new title of *Tasmanian Assessment, Standards and Certification Act 2003*.

#### **BUILDING REGULATIONS 2016 AMENDED**

**Clause 159: Principal Regulations**

This clause provides that the Principal Regulations to which the amendments apply is the *Building Regulations 2016*

**Clause 160: Regulation 3 amended (Interpretation)**

The amendment corrects the reference of the *Education Act 1994* to the *Education Act 2016*. It also removes a reference to the *Education and Training (Tasmanian Academy) Act 2008*.

#### **COLLECTIONS FOR CHARITIES (APPROVED ORGANISATIONS) ORDER 2002 AMENDED**

**Clause 161: Principal Order**

This clause provides that the Principal Order to which the amendments apply is the *Collection for Charities (Approved Organisations) Order 2002*.

**Clause 162: Schedule 1 amended (Approved organisations)**

The amendment corrects the reference of the *Education Act 1994* to the *Education Act 2016*.

#### **EDUCATION REGULATIONS 2017 AMENDED**

**Clause 163: Principal Regulations**

This clause provides that the Principal Regulations to which the amendments apply is the *Education Regulations 2017*.

**Clause 164: Schedule 3 amended (Standards for Registration of New Individual Non-government Schools)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a minor terminology change to the Regulations.

**Clause 165: Schedule 4 amended (Standards for Renewal of Registration of Registered Individual Schools)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a minor terminology change to the Regulations.

#### **EDUCATION AND CARE SERVICES NATIONAL LAW (APPLICATION) ACT 2011 AMENDED**

**Clause 166: Principal Act**

This clause provides that the Principal Act to which the amendments apply is the *Education and Care Services National Law (Application) Act 2011*.

**Clause 167: Section 9 amended (Regulatory Authority)**

The amendment corrects the reference of the *Education Act 1994* to the *Education Act 2016*.

**Clause 168: Section 10 amended (Children's services law)**

The amendment corrects the reference of the *Education Act 1994* to the *Education Act 2016*.

**Clause 169: Section 11 amended (Education law)**

The amendment corrects the reference of the *Education Act 1994* to the *Education Act 2016*.

**OFFICE OF TASMANIAN ASSESSMENT, STANDARDS AND CERTIFICATION (FEES)  
REGULATIONS 2013 AMENDED**

**Clause 170: Principal Regulations**

This clause provides that the Regulations to which the amendments apply is the *Office of Tasmanian Assessment, Standards and Certification (Fees) Regulations 2013*.

**Clause 171: Regulation 3 amended (Interpretation)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Regulations, including the replacement of references to 'Office' with 'Board'.

**Clause 172: Regulation 5 amended (Fees payable in relation to examinations)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a minor terminology change to the Regulations.

**Clause 173: Schedule 2 amended (Fees Relating to Examinations)**

To give effect to the change in governance structure of TASC from an Office to a Board, the amendment makes a number of minor terminology changes to the Regulations, including the replacement of references to 'Office' with 'Board'.

**RADIATION PROTECTION REGULATIONS 2016 AMENDED**

**Clause 174: Principal Regulations**

This clause provides that the Principal Regulations to which the amendments apply is the *Radiation Protection Regulations 2016*.

**Clause 175: Regulation 47 amended (Exemptions for radiation sources used in educational institutions)**

Amend definition of 'educational institution' to correct reference to the *Education Act 1994* to the *Education Act 2016*. It also removes a specific reference to the Tasmanian Academy under the *Education and Training (Tasmanian Academy) Act 2008*.

**REGISTRATION TO WORK WITH VULNERABLE PEOPLE REGULATIONS 2014 AMENDED**

**Clause 176: Principal Regulation**

This clause provides that the Principal Regulations to which the amendments apply is the *Registration to Work with Vulnerable People Regulations 2014*.

**Clause 177: Regulation 4J amended (Child education service (non-government schools) – regulated activity)**

Amends Regulation 4J(1) definition to correct reference to the *Education Act 1994* to the *Education Act 2016*.

**Clause 178: Regulation 4N amended (Child education service (government schools) – regulated activity)**

Amends Regulation 4N definition of 'child education service (government schools)' to correct reference to the *Education Act 1994* to the *Education Act 2016*. It also removes a reference to a college as defined in the *Education and Training (Tasmanian Academy) Act 2008*.

## TRAINING AND WORKFORCE DEVELOPMENT ACT 2013 AMENDED

**Clause 179: Principal Act**

This clause provides that the Principal Act to which the amendments apply is the *Training and Workforce Development Act 2013*.

**Clause 180: Section 4 amended (Interpretation)**

The amendment corrects the reference of the *Education Act 1994* to the *Education Act 2016*.

**Clause 181: Section 57 amended (Functions of TasTAFE)**

The amendment corrects references to the *Education Act 1994* to the *Education Act 2016*.

**Clause 182: Section 86 amended (Fees, levies and charges)**

The amendment updates the Principal Act to refer to correct sections of the *Education Act 2016* regarding post-Year 10 senior secondary education and training.

## VOCATIONAL EDUCATION AND TRAINING (COMMONWEALTH POWERS) ACT 2011 AMENDED

**Clause 183: Principal Act**

This clause provides that the Principal Act to which the amendments apply is the *Vocational Education and Training (Commonwealth Powers) Act 2011*.

**Clause 184: Section 11 amended (Provision of information and assistance to National VET Regulator)**

Correction of terminology to recognise the change from the 'Office of TASC' to the 'Board of TASC'.

## MISCELLANEOUS

**Clause 185: Repeal of Act**

This clause is a standard repeal provision to remove the empty shell of the Bill after all of its provisions have been transferred and have come into effect in the Principal Acts.