

TASMANIA

EDUCATION AMENDMENT BILL 2003

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EDUCATION AMENDMENT BILL 2003

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
25 November 2003

*(Brought in by the Minister for Education, the Honourable
Paula Catherine Wriedt)*

A BILL FOR

An Act to amend the *Education Act 1994*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

Short title

1. This Act may be cited as the *Education Amendment Act 2003*.

Commencement

2. The provisions of this Act commence on a day or days to be proclaimed.

Principal Act

3. In this Act, the *Education Act 1994** is referred to as the Principal Act.

Section 3 amended (Interpretation)

4. Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “disability”:

“distance education” means education provided to a school-aged child that is –

- (a) characterised by the separation of the teacher and child in time or place; and
- (b) provided by using a variety of methods of delivery;
- (b) by omitting “in the home” from the definition of “home education”;
- (c) by inserting the following definition after the definition of “hostel”:

“individual educational program” means a program provided and supervised by a school that meets the individual educational needs of a child;

*No. 86 of 1994

- (d) by omitting the definition of “registered school” and substituting the following definition:

“registered school” means –

- (a) a school registered under Part 5; and
 - (b) a campus of a school registered, managed or controlled by a school in another State or in a Territory of the Commonwealth;
- (e) by omitting “college or other centre, unit or institution” from paragraph (a) of the definition of “school” and substituting “State college or other centre, unit or institute of the State”;
- (f) by omitting the definitions of “school charter” and “school council” and substituting the following definition:

“school association” means an association established under section 26;

- (g) by inserting the following definition after the definition of “school student”:

“school’s relevant financial year” means the financial year of the school during which a grant or subsidy was received;

Section 4 amended (Enrolment)

5. Section 4 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “6” and substituting “5”;
- (b) by omitting from subsection (2) “A parent of a school-aged” and substituting “Unless a school-aged child is exempted from enrolment under section 5, a parent of the”;
- (c) by inserting the following paragraph after paragraph (a) in subsection (5):
 - (ab) the family name of the child; and

Section 6 amended (Attendance)

6. Section 6 of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (a) in subsection (1):
 - (ab) participates in an individual educational program; or
- (b) by inserting in subsection (2) “the child is participating in an individual educational program or is” after “unless”.

Section 7 amended (Part-time attendance)

7. Section 7 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “exempt the child from full-time attendance in a school and”;

- (b) by omitting from subsection (2) “grant an exemption from full-time attendance and”;
- (c) by omitting from subsection (3)(a) “grant the exemption” and substituting “permit part-time attendance”.

Section 8 amended (Certificate of exemption)

8. Section 8(1) of the Principal Act is amended by omitting “or 7”.

Section 10 amended (Excused from daily attendance)

9. Section 10 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) “5 school days of the start of the non-attendance” and substituting “the period specified by the Secretary”;
- (b) by omitting from subsection (2) “5 school days” and substituting “the period specified by the Secretary”.

Section 12 amended (Objection to participation in school activities)

10. Section 12 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “attending a State school” after “school-aged child”;
- (b) by inserting in subsection (2) “and stating the reasons” after “writing”.

Section 17 amended (Registration of home educators)

11. Section 17 of the Principal Act is amended as follows:

- (a) by inserting in subsection (3)(a) “if the parent has failed to comply with an applicable provision of this Act” after “educator”;
- (b) by omitting from subsection (4) “in the home of that parent”;
- (c) by inserting in subsection (4) “until the child attains the age of 16 years, unless the registration has been extended under subsection (4B)(b)” after “sought”;
- (d) by inserting the following subsections after subsection (4):

(4A) A parent may apply to extend his or her registration as a home educator for a period not exceeding the equivalent of 2 years full-time study in respect of a student who has attained the age of 16 years in order to complete the final year of secondary education.

(4B) The Minister may –

- (a) refuse an application to extend registration as a home educator; or
- (b) grant the application, subject to any conditions the Minister determines.

Section 23 amended (Functions and powers of principals)

12. Section 23(1)(d) of the Principal Act is amended by omitting “school charter” and substituting “set of beliefs, values and priorities formulated and developed under section 27(a)(i)”.

Part 3, Division 2 substituted

13. Division 2 of Part 3 of the Principal Act is repealed and the following Division is substituted:

Division 2 – School associations

School associations

26. (1) A State school must have a school association established under this Division.

(2) A State school is to submit to the Minister a draft constitution of the proposed school association.

(3) The Minister is to establish a school association for a State school if satisfied that the draft constitution is appropriate.

(4) Any change to the constitution of a school association must have the prior approval of the Minister.

(5) The Minister, if satisfied that it is necessary to do so may abolish a school association.

Functions of school associations

27. A school association has the following functions:

- (a) to participate in the formulation and development of –
 - (i) a set of beliefs, values and priorities for the school; and
 - (ii) the school policies and code of conduct;
- (b) to provide advice and recommendations to the principal in relation to the general operations and management of the school;
- (c) to participate on the selection panel in respect of any advertised permanent vacancy for the position of principal;
- (d) to foster cooperation among teachers, students, members of the school association, parents and the community;
- (e) to provide advice and recommendations to the Secretary on any matter relating to policy;
- (f) to approve the school budget;
- (g) any other function the Minister determines.

Powers of school associations

28. (1) A school association has the following powers:

- (a) to carry out trading activities not relating to education for the benefit of the school;
- (b) to provide, or assist in the provision of, financial or other resources or services for the benefit of the school.

(2) A school association may do anything necessary or convenient to perform its functions.

(3) A school association must exercise its powers in accordance with any instructions issued by the Secretary.

Annual report

29. A school association is to provide to the principal and the school community once in every 12 months a report of its activities for the period to which the report relates.

Section 35 amended (Reviews)

14. Section 35 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “educational instruction” and substituting “education”;
- (b) by omitting from paragraph (b) “plans and”.

Section 36 amended (Unacceptable behaviour)

15. Section 36 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “at” and substituting “of”;

- (b) by omitting from subsection (2) “in a State school”;
- (c) by omitting from subsection (2)(f) “disrepute.” and substituting “disrepute; or”;
- (d) by inserting the following paragraph after paragraph (f) in subsection (2):
 - (g) constitutes any other behaviour that the Secretary determines.

Section 40 amended (Transfer of students)

16. Section 40 of the Principal Act is amended by inserting after subsection (2) the following subsection:

(3) The parent of a student who is transferred may request that the Secretary provide reasons in writing for that transfer.

Section 41 amended (Fees, levies and charges)

17. Section 41 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “levy a charge to cover the” and substituting “impose levies in respect of”;
- (b) by omitting from subsection (4) “principal of a State school, with the agreement of the school council, may” and substituting “Secretary may authorise the principal of a State school to”.

Section 42 amended (Hire of school facilities and equipment)

18. Section 42(1) of the Principal Act is amended by omitting “a State school to hire out any facilities” and substituting “the principal of a State school to hire out any facilities or equipment”.

Section 44 repealed

19. Section 44 of the Principal Act is repealed.

Section 46 amended (Education before compulsory education)

20. Section 46(1) of the Principal Act is amended by omitting “6” and substituting “5”.

Section 47 amended (Completion of secondary education)

21. Section 47(1) of the Principal Act is amended by inserting “, subject to section 47A(4), (5) and (6),” after “entitled”.

Section 47A inserted

22. After section 47 of the Principal Act, the following section is inserted in Part 4:

Education after compulsory education

47A. (1) A person who is not a school-aged child may apply to the principal of a State school to attend that school.

(2) An application is to be in a form approved by the Secretary.

(3) Subject to subsection (4), the principal may –

- (a) grant the application with or without conditions; or
- (b) refuse to grant the application.

(4) The Secretary may require to be satisfied that the person is of good character before the person may attend a State school.

(5) In order to be satisfied about the good character or otherwise of a person, the Secretary may require the Commissioner of Police to provide a report in respect of any convictions or proceedings taken against the person.

(6) Sections 22(1), 31(1), 45(1) and 108 of the *Youth Justice Act 1997* do not apply to the identification in a report provided under subsection (5) of a person who is a youth as defined in that Act in respect of any action or proceedings referred to in those sections.

Section 51 amended (Registered schools)

23. Section 51 of the Principal Act is amended by inserting “or a campus of a school” after “a school”.

Section 53 amended (Grant of application)

24. Section 53(1) of the Principal Act is amended by inserting after paragraph (f) the following paragraphs:

- (fa) the financial viability of the school;
- (fb) the proposed arrangements for the governance and administration of the school;
- (fc) the likely impact of the registration of the school on existing schools in the same geographical area;
- (fd) the proposed grievance process;

Section 54 amended (Types of registration)

25. Section 54 of the Principal Act is amended by inserting after paragraph (b) the following paragraph:

- (ba) distance education;

Section 70 substituted

26. Section 70 of the Principal Act is repealed and the following section is substituted:

Use of grant or subsidy

70. The governing body of a registered school which receives a grant or subsidy must submit to the Secretary, within 6 months after the end of the school's relevant financial year, a statement by an independent auditor certifying that the grant or subsidy was used for the purposes for which it was made or granted.

Section 82 amended (Employment of children)

27. Section 82 of the Principal Act is amended by inserting “or undertake home education, except as authorised by the Secretary” after “school”.