

# TASMANIA

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## EDUCATION AMENDMENT BILL 2017

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# **EDUCATION AMENDMENT BILL 2017**

*(Brought in by the Minister for Education and Training, the  
Honourable Jeremy Page Rockliff)*

## **A BILL FOR**

**An Act to amend the *Education Act 2016* and to validate  
the collection of certain fees under the *Education Act 1994***

Be it enacted by Her 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:

## **PART 1 – PRELIMINARY**

### **1. Short title**

This Act may be cited as the *Education  
Amendment Act 2017*.

### **2. Commencement**

- (1) Section 1 and Part 2 and this section are taken to have commenced on 10 July 2017.
- (2) The remaining provisions of this Act commence on the day on which this Act receives the Royal Assent but, if it does not receive the Royal Assent on or before 30 August 2017, are taken to have commenced on that day.

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Part 2 – Education Act 2016 Amended

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**PART 2 – EDUCATION ACT 2016 AMENDED**

**3. Principal Act**

In this Part, the *Education Act 2016*\* is referred to as the Principal Act.

**4. Schedule 5 amended (Savings and Transitional Provisions)**

Schedule 5 to the Principal Act is amended as follows:

- (a) by omitting from clause 2(1) of Part 2 “on 31 December 2019” second occurring and substituting “on the day on which section 8 of this Act commences or is taken to have commenced”;
- (b) by omitting subclauses (2), (3) and (4) from clause 2 of Part 2;
- (c) by omitting from clause 14(6)(b) of Part 6 “2016” and substituting “2017”;
- (d) by inserting the following subclause after subclause (7) in clause 20 of Part 7:
  - (8) For the purposes of an uncompleted review under this clause –
    - (a) if the uncompleted review is taken under this clause

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to be a request under section 182 of this Act for a registration review, the instructions of the Board under section 56(2) of the former Act, as in force immediately before the commencement day, are taken to be instructions in force under section 182(4) of this Act in respect of the registration review; and

- (b) if the uncompleted review is taken under this clause to be a registration inspection requested under section 186 of this Act, matters referred to in section 53 of the former Act, as in force immediately before the commencement day, as matters to be taken into account are taken to be the relevant standards for the inspection.

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**PART 3 – EDUCATION ACT 2016 FURTHER  
AMENDED**

**5. Principal Act**

In this Part, the *Education Act 2016*\* is referred to as the Principal Act.

**6. Section 2 amended (Commencement)**

Section 2 of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:
  - (1) Section 8 commences on the day on which Part 3 of the *Education Amendment Act 2017* commences or is taken to have commenced.
- (b) by omitting subsections (3), (4), (5), (6), (7), (8) and (9).

**7. Section 5 amended (Interpretation)**

Section 5 of the Principal Act is amended as follows:

- (a) by omitting the definition of *overseas student* and substituting the following definition:

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***overseas student*** means a person who holds a visa under the *Migration Act 1958* of the Commonwealth under which the person, whether expressly or otherwise, may study in Tasmania;

- (b) by omitting the definition of *statement of Year 10 completion*;
- (c) by inserting the following definition after the definition of *trainee*:

***transition statement*** means a statement issued to a person under section 90 or section 91;

**8. Section 7 amended (Secretary’s instructions)**

Section 7(2) of the Principal Act is amended as follows:

- (a) by omitting “this Part” and substituting “this Act”;
- (b) by omitting from paragraph (a) “a school” and substituting “a State school”.

**9. Section 8 amended (Kindergarten)**

Section 8 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “30 June” and substituting “1 January”;

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- (b) by omitting from subsection (2) “30 June” and substituting “1 January”;
- (c) by omitting subsections (3) and (4).

**10. Section 9 repealed**

Section 9 of the Principal Act is repealed.

**11. Section 10 amended (Object of Part)**

Section 10(a) of the Principal Act is amended by omitting “statement of Year 10 completion” and substituting “transition statement”.

**12. Section 11 amended (Requirement to enrol school-aged child at school or provide home education)**

Section 11(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “statement of Year 10 completion” and substituting “transition statement”;
- (b) by omitting from paragraph (b) “statement of Year 10 completion” and substituting “transition statement”.

**13. Section 19 amended (School-aged child excused from daily attendance at school)**

Section 19(1)(c) of the Principal Act is amended by omitting “2” and substituting “5”.



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**14. Section 22 amended (Providing learning program or notifying of home education)**

Section 22 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “statement of Year 10 completion” and substituting “transition statement”;
- (b) by omitting from subsection (3) “statement of Year 10 completion” and substituting “transition statement”;
- (c) by omitting from subsection (6) “statement of Year 10 completion” and substituting “transition statement”.

**15. Section 24 amended (Participation in approved learning program or home education)**

Section 24(1) of the Principal Act is amended by omitting “statement of Year 10 completion” and substituting “transition statement”.

**16. Section 25 amended (Proposed learning program for child coming from outside jurisdiction)**

Section 25(3) of the Principal Act is amended by omitting “statement of Year 10 completion” and substituting “transition statement”.

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**17. Section 29 amended (Approval of learning program)**

Section 29 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “statement of Year 10 completion” and substituting “transition statement”;
- (b) by omitting from subsection (3) “statement of Year 10 completion” and substituting “transition statement”;
- (c) by omitting from subsection (4) “statement of Year 10 completion” and substituting “transition statement”.

**18. Section 64 amended (Strategies to eliminate or ameliorate risks to health and safety of persons at school)**

Section 64(1) of the Principal Act is amended by omitting “risk” and substituting “risk, because of the child’s behaviour,”.

**19. Section 67A inserted**

After section 67 of the Principal Act, the following section is inserted in Subdivision 1:

**67A. Provisional approval of proposed home education program**

- (1) On receipt of an application for the approval of a proposed home education

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program, the Registrar may provisionally approve the proposed program if satisfied that the proposed program is likely to meet the standards prescribed by the regulations for approved home education programs.

- (2) Before provisionally approving a proposed home education program under subsection (1), the Registrar is to –
  - (a) seek and consider advice from the Tasmanian Home Education Advisory Council in relation to the proposed home education program; and
  - (b) consider the proposed home education program and assess it against the standards prescribed by the regulations for approved home education programs.
- (3) The provisional approval of a home education program under subsection (1) may be subject to such conditions as the Registrar determines.
- (4) If the Registrar provisionally approves a proposed home education program under subsection (1), he or she is to provide written evidence of the provisional approval, to the home educator intending to provide home education under the program, that clearly states –

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- (a) that the approval of the proposed program is provisional; and
  - (b) the name of each parent who is a home educator providing home education under the program; and
  - (c) the conditions of the provisional approval, if any.
- (5) The Registrar may revoke provisional approval of a proposed home education program under subsection (1) at any time by written notice to the home educator providing home education under the program.
- (6) The provisional approval of a proposed home education program under this section by the Registrar, or the refusal to provide such provisional approval –
  - (a) is not to be taken into account as part of the final determination of the Registrar under section 69 in respect of the proposed program; and
  - (b) does not, of itself, mean that the proposed program will be so approved, or approval will be so refused, under that section.
- (7) The provisional approval of a proposed home education program under this section ceases to have effect once the Registrar has given written notice under

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section 69(9) in respect of the proposed program.

**20. Section 80 amended (Enrolment at school for part-time attendance by home educated child)**

Section 80(2)(d) of the Principal Act is amended by omitting “Secretary” and substituting “Minister”.

**21. Section 89 amended (Guidelines relating to enrolment for part-time schooling)**

Section 89 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “body” and substituting “authority”;
- (b) by omitting from subsection (3) “body” and substituting “authority”;
- (c) by omitting from subsection (4) “body” twice occurring and substituting “authority”.

**22. Section 90 amended (Statement of Year 10 completion by principal)**

Section 90 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “completed” twice occurring and substituting “finished”;

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- (b) by omitting from subsection (2) “completes” and substituting “finishes”;
- (c) by omitting from subsection (2) “completion of” and substituting “finishing”.

**23. Section 91 amended (Statement of Year 10 completion by Registrar)**

Section 91 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “completed” twice occurring and substituting “finished”;
- (b) by omitting from subsection (2) “completes” and substituting “finishes”.

**24. Section 119 amended (Conflict of interest by member of school association)**

Section 119 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “a member of” and substituting “an officeholder in”;
- (b) by omitting from subsection (1) “member” second occurring and substituting “officeholder”;

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- (c) by omitting from subsection (2) “a member of” and substituting “an officeholder in”;
- (d) by omitting from subsection (2)(a) “member” and substituting “officeholder”;
- (e) by omitting from subsection (2)(b) “member” and substituting “officeholder”.

**25. Section 125 amended (Curriculum, assessment and reporting)**

Section 125 of the Principal Act is amended as follows:

- (a) by omitting from subsection (4)(a) “3” and substituting “4”;
- (b) by omitting from subsection (4)(b) “the Secretary”;
- (c) by omitting the definition of *learning framework* from subsection (5) and substituting the following definition:

***learning framework*** –

- (a) in relation to a class of children determined by the Secretary under subsection (3)(a)(ii), means a framework, that describes the principles and practices to support

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and enhance learning and the outcomes to be achieved from that learning, as approved from time to time by the Secretary; and

- (b) in relation to any other children, has the meaning given by section 4(2).

**26. Section 138A inserted**

After section 138 of the Principal Act, the following section is inserted in Division 6:

**138A. Recovery of fees and charges from overseas student**

- (1) Subject to subsection (2), the Minister may recover from an overseas student, as a debt due and owing to the Crown and in a court of competent jurisdiction, the fees and charges that the overseas student is required to pay under section 138(2).
- (2) If an overseas student has not attained the age of 18 years, the Minister may recover, as a debt due and owing to the Crown and in a court of competent jurisdiction, the fees and charges that the overseas student is required to pay under section 138(2) from any person in respect of whom the Minister is satisfied has a legal obligation to pay such fees and



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charges in respect of the overseas student.

- (3) The Minister may cancel the enrolment of the overseas student if the fees and charges that the overseas student is required to pay under section 138(2) are not paid, whether or not the Minister recovers those fees and charges under subsection (1) in respect of the overseas student.
- (4) In any legal proceedings under this section, a document –
  - (a) purporting to be signed by the Secretary; and
  - (b) certifying that, at a specified date, a specified amount of fees and charges is owed by an overseas student –

is taken to be evidence of those things unless the contrary is proved.

**27. Section 164 amended (Application for registration of new individual non-government school)**

Section 164(2)(e) of the Principal Act is amended by omitting “9 months” and substituting “9 months, or such lesser time as the Registrar determines,”.

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**28. Section 199 amended (Qualifications of principal)**

Section 199 of the Principal Act is amended by inserting “providing compulsory education in accordance with Part 3” after “school”.

**29. Section 257 amended (Evidence and presumptions)**

Section 257(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (e) “statement of Year 10 completion” and substituting “transition statement”;
- (b) by omitting from paragraph (h) “statement of Year 10 completion” and substituting “transition statement”.

**30. Section 259 amended (Regulations)**

Section 259(2) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

- (a) the enrolment, at a school for kindergarten or compulsory education, of children or classes of children who have not attained the age specified in section 8; and

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**31. Schedule 5 amended (Savings and Transitional Provisions)**

Schedule 5 to the Principal Act is amended by omitting “statement of Year 10 completion” from clause 6 of Part 3 and substituting “transition statement”.

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Part 4 – Miscellaneous

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**PART 4 – MISCELLANEOUS**

**32. Validation of certain fees and charges**

- (1) Any fees or charges required to be paid, and determined, under section 41(2) of the *Education Act 1994* before the commencement of section 3 of the *Education Act 2016* are taken to have been validly required and determined under the *Education Act 1994*.
- (2) For the avoidance of doubt, clause 17 of Schedule 5 of the *Education Act 2016* applies in respect of a fee or charge referred to in subsection (1) that was imposed before the commencement of section 3 of that Act and has not been paid.
- (3) No action lies against the Crown in right of Tasmania in relation to any loss incurred by a person if the loss is only incurred as a consequence of the payment of a fee or charge, that, but for this section, would not have been validly imposed or collected.

**33. Repeal of Act**

This Act is repealed on the three hundred and sixty fifth day from the day on which all of its provisions commence.