

CLAUSE NOTES

Education Bill 2016

PART 1 – PRELIMINARY

- Clause 1. **Short title**
This clause provides for the Short title of the Bill to be the *Education Act 2016*.
- Clause 2. **Commencement**
This clause provides for the commencement of the Bill.
- Clause 3. **Objects of Act**
Sets out the purpose of the Act.
- Clause 4. **Principles which are basis of Act**
Sets out the principles that underpin the Act.
- Clause 5. **Interpretation**
Provides meanings for terms used in the Act.
- Clause 6. **Ministerial instructions**
Sets out the matters for which the Minister may issue instructions.
- Clause 7. **Secretary's instructions**
Sets out the matters for which the Secretary may issue instructions.

PART 2 – EDUCATION BEFORE COMPULSORY EDUCATION

- Clause 8. **Kindergarten**
Establishes the age at which children are eligible to attend kindergarten in government and non-government schools. Children must be a minimum of 4 as at 30 June (that is, 3 years and 6 months at the beginning of the year).
Provides a legal entitlement for eligible children to attend kindergarten in a government school for one year.
- Clause 9. **Early enrolment in first year of education following kindergarten**
Establishes the age at which children are eligible to commence full-time school (Prep) in government and non-government schools. Children must be a minimum of 5 as at 30 June (that is, 4 years and 6 months at the beginning of the year).
Provides a legal entitlement for eligible children to attend a government school.

PART 3 – COMPULSORY EDUCATION AND TRAINING

Division 1 – Objects of Part

Clause 10. Object of Part

Sets the purpose of the Part, which is to ensure that each child completes at least 13 years of education or training.

Division 2 – School-aged children

Subdivision 1 – Enrolment at school

Clause 11. Requirement to enrol school-aged child at school or provide home education

Establishes the age at which children must commence their education. Children must be enrolled in a school or be registered for home education when they are 5 as at 1 January.

Establishes the obligation for parents to ensure their child is enrolled in a school or registered for home education.

Provides for the dual enrolment of children with disability in a mainstream and specialist support school across the government and non-government sectors.

Clause 12. Applying for enrolment at school

Provides for the information required about a child in order to enrol in a school. For example, name, address, parents' names.

Clause 13. Exemption from requirement to enrol at school or be home educated

Enables the Minister to exempt a school-aged child or class of children from the requirement to enrol at a school or in home education if satisfied it is in their best interests.

Clause 14. Certificate of exemption

Sets out the obligations of the Minister to issue a certificate where an exemption has been made under clause 13.

Clause 15. Revocation of exemption to enrol at school or be home educated

Enables an exemption from enrolment under clause 13 to be revoked.

Subdivision 2 – Attendance of school-aged children at school

Clause 16. Attendance at school of school-aged child

Establishes obligations for parents in regard to the attendance of their child at school and expectations as to what constitutes attendance.

Requires principals to keep a register of daily attendance.

Clause 17. Part-time attendance of school-aged child

Enables the Minister to approve the part-time attendance of a child at school if satisfied it is in the child's best interests.

Enables the Minister to do so with or without conditions, and to vary or revoke conditions.

Clause 18. Exemption from attendance of school-aged child without application

Sets out the circumstances in which a child is exempted from attendance without application, eg, the child has been suspended or exempted under clause 13.

Clause 19. School-aged child excused from daily attendance at school

Sets out the circumstances in which a child is excused from daily attendance at school because of illness or public health requirements. Establishes the threshold where medical certificates are required.

Subdivision 3 – Withdrawal from, or cancellation of, enrolment of school- aged child

Clause 20. Withdrawal from, or cancellation of, enrolment of school-aged child

Requires a parent to notify the principal in writing if their child is to be withdrawn from the school, including the proposed education of the child after withdrawal.

Sets out requirements for principals to communicate with each other or with the Registrar-Education to ensure the child is enrolled in the new school or is registered for home education, and the course of action if this does not occur.

Requires a non-government school to notify the Secretary if its cancels the enrolment of a child.

Subdivision 4 – Providing learning programs or notices of home education during last year as school-aged child

Clause 21. Object of subdivision

Sets out the purpose of the Division, which is to provide for the development of learning programs for education and training after completion of Year 10.

Clause 22. Providing learning program or notifying of home education

Requires the submission of a learning program for children in Year 10 as to the education and training they will undertake after Year 10.

Requires the principal to provide a copy of the program to the Secretary. This is the mechanism by which information will be collected to ensure all young people are participating as required in education and training so they can be followed up where they are not and be supported back into education and training.

Division 3 – Youths

Subdivision 1 – Participation in, and completion of, approved learning programs or home education

Clause 23. What is participation in an approved learning program?

Defines participation. As the participation requirements will vary depending on the program selected, participation is defined as being in accordance with the program. Eg, an apprenticeship will have different requirements to being in Years 11 12 in a school.

- Clause 24. Participation in approved learning program or home education**
Establishes the minimum education and training leaving requirements.
Requires participation in education and training until the completion of Year 12, attainment of a certificate III, or the age of 18, whichever occurs first.
Provides for obligations for parents to ensure their child is participating as required.
- Clause 25. Proposed learning program for child coming from outside jurisdiction**
Provides for the development of a learning program for a child who moves to Tasmania after Year 10 and, therefore, has not fulfilled the requirements to submit a learning program during Year 10.
- Clause 26. Exemption from participation in approved learning program**
Enables the Minister to exempt a youth or class of youths from the requirement to participate in an approved learning program or be home educated if satisfied it is in the youth's or youths' best interests.
Establishes an exemption for full-time employment.
- Clause 27. Certificate of exemption**
Sets out the obligations of the Minister to issue a certificate where an exemption has been made under clause 26.
- Clause 28. Revocation of exemption from requirement to participate in approved learning program or be home educated**
Enables an exemption from the requirement to participate in an approved learning program to be revoked.
- Clause 29. Approval of learning program**
Sets out the way in which a learning program is approved.
- Clause 30. Amendment of approved learning program**
Enables the Secretary to ensure that the program a young person is undertaking can be amended if it is not meeting the requirements of a learning program. Before doing so, the Secretary must consult with the young person, and if practicable, their parents and provider of the education or training.
- Clause 31. Completion of approved learning program**
Defines completion of a learning program; that is, a youth has completed Year 12, attained a certificate III or turned 18, whichever occurs first.
- Subdivision 2 – Enrolment at school under approved learning program*
- Clause 32. Enrolment at school under approved learning program**
Where a youth is continuing in a school for Years 11 and 12, this clause provides for the information required about the youth in order to enrol in a school. For example, name, address, parents' names.
Provides for the dual enrolment of a youth with disability in a mainstream and specialist support school across the government and non-government sectors in

Years 11 and 12.

Subdivision 3 – Attendance of youths at approved learning programs

Clause 33. Attendance at approved learning program

Establishes obligations in regard to attendance at an approved learning program, for:

- young people to attend,
- parents to ensure the attendance of their child, and
- providers in regard to the non-attendance of a youth.

Clause 34. Part-time attendance at approved learning program

Enables the Minister to approve the part-time attendance of a youth in an approved learning program if satisfied it is in the youth's best interests.

Enables the Minister to do so with or without conditions, and to vary or revoke conditions.

Clause 35. Exemption from attendance at approved learning program without application

Sets out the circumstances in which a youth is exempted from attendance without application, eg, the youth has been suspended or exempted under clause 26.

Clause 36. Youth excused from daily attendance at approved learning program

Sets out the circumstances in which a youth is excused from daily attendance because of illness or public health requirements. Establishes the threshold where medical certificates are required.

Subdivision 4 – Other matters relating to approved learning programs

Clause 37. Notification of change of circumstances under approved learning program

Sets out the requirements in regard to notification to the Secretary if there is a change in circumstances that affects the education or training in the approved learning program. Eg, withdrawal from a school.

Clause 38. Use of information about approved learning program

Sets out the way in which information about an approved learning program can be used.

The information can be used to ensure a young person is participating as required. This will enable a young person to be followed-up and supported back into education or training if they have dropped out.

The section also allows de-identified information to be used for planning, reporting and research purposes.

Division 4 – Other matters relating to enrolment and attendance at school or approved learning program

Clause 39. Objection to participation in school activities

Enables parents to object as a matter of conscience from participation of their child in an activity prescribed in regulations. Eg, from a particular assembly or presentation, or viewing of a film.

Division 5 – Managing unauthorised absences

Subdivision 1 – Investigating unauthorised absences

Clause 40. Investigation of unauthorised absence

The purpose of this clause is to provide that authorised persons can approach school aged children or youths who are not at school and determine whether they should be at school and take steps to help them return to school where that is appropriate.

This clause is designed to assist with the management of truant school students and ensure that their absences can be investigated.

This clause applies to both government and non-government school students.

Subdivision 2 – Compulsory conciliation conferences

Clause 41. Ministerial instructions relating to student absence

This clause provides for the Minister to issue instructions for both government and non-government schools as to the processes to be followed to manage absence of school students and the convening of a compulsory conference.

Clause 42. Referral of absenteeism to Registrar

This clause provides for the steps to be taken by schools after satisfying the requirements in the Ministerial instructions, to refer ongoing absences to the Registrar for consideration of a compulsory conference.

Clause 43. Process for convening compulsory conciliation conference

This clause sets out the process to be followed by the Registrar when establishing a compulsory conference and sets out who can be invited or attend a compulsory conference, and who is required to provide information to the Registrar.

Clause 44. Conduct of compulsory conciliation conference

This clause sets out the processes to be followed by a conciliator when conducting a compulsory conference.

Clause 45. Recommendations of compulsory conciliation conference

A compulsory conference may result in recommendations to the Registrar based on agreed outcomes from the compulsory conference.

Clause 46. Before concluding compulsory conciliation conference

This clause sets out the steps the Conciliator must take in recording the recommendations made at the conference.

Clause 47. Procedure by conciliator after compulsory conciliation conference

This clause provides that the Conciliator must report to the Registrar on the outcomes of the conference.

Subdivision 3 – Procedure of Registrar after compulsory conciliation conference

Clause 48. Action by Registrar on report of conciliator

This clause provides for the Registrar to assess the report of the conciliator and either issue requirements designed to resolve the student's absence, or refer the matter to the Principal Officer, non-attendance to consider the making of a Compulsory Schooling Order.

Clause 49. Compliance with requirement of Registrar

Where the Registrar issues a requirement to a person, that person is required to comply with the requirement.

Subdivision 4 – Actions if no compliance with requirement of Registrar

Clause 50. Report of non-compliance with Registrar's requirement

This clause provides a mechanism to alert the Registrar of non-compliance with a requirement.

Subdivision 5 – Actions by Principal Officer, Non-attendance on referral of student absence by Registrar

Clause 51. Assessing and determining referral of compulsory conciliation conference's recommendations, &c.

This clause provides for the role of the Principal Officer, Non-attendance in determining an application for a Compulsory Schooling Order.

Subdivision 6 – Compulsory Schooling Orders

Clause 52. What is a Compulsory Schooling Order?

This clause defines a Compulsory Schooling Order.

Clause 53. Compliance with Compulsory Schooling Order

This clause requires that parents and the student are required to comply with the Compulsory Schooling Order if made.

Clause 54. Application for review of Compulsory Schooling Order

This clause provides for a parent to apply for a review of a Compulsory Schooling Order.

Clause 55. Constituting Review Panel to determine application for review of Compulsory Schooling Order

This clause provides for the establishment of a review panel of three people to hear a review into a decision to make a Compulsory Schooling Order.

Clause 56. Review of Compulsory Schooling Order

This clause provides for the consequences of the Review Panel decision and the Orders the Review Panel may make.

Clause 57. Effect of application for review of Compulsory Schooling Order

This clause provides a stay of proceedings to enforce the Compulsory Schooling

Order while the Review Panel hears and determines the review.

Subdivision 7 – Miscellaneous

Clause 58. Re-convening compulsory conciliation conference

One of the options for the review Panel is to Order the reconvening of a compulsory conference. This clause provides for the process of that Order.

Clause 59. Confidentiality by person attending compulsory conciliation conference

This clause ensures the confidentiality of the conciliation conference by providing that the Conciliator may direct a person to keep information confidential.

Clause 60. Confidentiality by conciliator

This clause provides that the Conciliator must also keep the details of a conciliation conference confidential (except as required under the Act).

Division 6 – Eliminating or ameliorating risks to health and safety of persons at school

Clause 61. Requiring information about child

This clause allows a school body to seek information (except medical information) about an enrolled student which will enable it to assess whether the student is likely to cause a risk to health and safety and to develop strategies for managing that risk.

Information may be sought from people and organisations such as other schools, the Secretary of Education, the Commissioner of Police and Commonwealth or State agencies.

Clause 62. Obligation to provide information about child

Persons or organisations from whom information about a student is sought in accordance with the Act have a duty to provide the information. Some information is exempt such as law enforcement information and information that would contravene other laws.

Clause 63. Requesting medical information

Where a school requires medical information about a student, it can only be sought with the authority of a parent who cannot be compelled to provide the consent. This clause also contains a penalty for the misuse of medical information.

Clause 64. Strategies to eliminate or ameliorate risks to health and safety of persons at school

This clause provides that the Principal of a school must develop and maintain strategies to eliminate or ameliorate the risk to health and safety, and share that information with the people necessary to ensure the implementation of the strategy.

Clause 65. Disclosing information obtained under this Division

This clause sets out the people to whom information can be disclosed and the circumstances in which it may be disclosed.

Clause 66. Ministerial instructions

This clause provides for the Minister to make instructions as to the matters to be

considered by schools when implementing this Division.

Division 7 – Home education

Subdivision 1 – Approved home education programs

- Clause 67. Application for approval of proposed home education program**
This clause sets out how a parent applies to be a home educator, or applies for approval to continue as a home educator through application for approval of a proposed home education program.
- Clause 68. Report of registration officer**
Before a home education program can be approved, a Registration Officer must visit the home educator and report to the Registrar on that visit and provide an assessment of the home education program.
- Clause 69. Determination of application for approval of proposed home education program**
This clause sets out the steps the Registrar must take before either approving or refusing to approve a home education program.
- Clause 70. Statement of status as home educator**
Once a home education program is approved the home educator will obtain the status of a home educator under the Act.
- Clause 71. Approved home education program subject to conditions**
The Registrar may impose conditions on the approval of a home education plan.
- Clause 72. Minor amendment to home education program**
A home educator may make minor amendments to a home education program without reference to the Registrar or a formal application to amend the program.
- Clause 73. Application to amend approved home education program**
Other than for minor amendments a home educator may apply for approval to amend a home education program.
- Clause 74. Determination of application to amend approved home education program**
This clause provides that the Registrar is to either approve or refuse to approve the application for amendment of the home education program.
- Clause 75. Continuing assessment of approved home education program**
This clause gives the Registrar the authority to carry out an assessment of the program in circumstances where the Registrar has concerns about the program or its delivery.
- Clause 76. Amendment to approved home education program by Registrar**
This clause allows the Registrar to amend the home education program in circumstances where it is necessary due to changes such as a change to the Standards prescribed in regulations.

Clause 77. Revocation of approval of home education program

This clause allows the Registrar to revoke the approval of the home education program in circumstances such as where the program is not being delivered properly or the program no longer meets the standards. This clause also allows the Registrar to revoke the approval of the home education program where it is in the best of the child to do so, this power is expected to be used sparingly and only in cases of emergency or where a child is at risk.

Clause 78. Effect of revocation in certain circumstances

This clause provides that where a home education program has been revoked because the parent did not properly deliver the program, and the parent re applies to deliver a home education program, the Registrar may consider whether the parent is likely to again fail to properly deliver the program and may refuse to register the program on those grounds.

Clause 79. Review of determination relating to approved home education program

This clause provides that a person may seek a review of the decision of the Registrar to refuse to approve a program, impose or vary a condition, refuse to approve an amendment, to make an amendment or to revoke an approval, such application for review to be made to the Magistrates Court (Administrative Appeals Division).

Subdivision 2 – Rights and duties of home educators, children and schools

Clause 80. Enrolment at school for part-time attendance by home educated child

This clause provides for a home educated child to apply to attend school part time, such application to be assessed by the Principal against guidelines for part time education.

Clause 81. Part-time attendance at school by home educated child

A home educated child must attend the school at which he or she is enrolled to attend part time as required by the part time enrolment.

Clause 82. Objection to participation in school activities

The parent of a home educated child who is enrolled in school part time may object to that student participating in some activities such as special assemblies or excursions.

Clause 83. Notification of absence or failure to complete courses

If a home educated child who is enrolled at school part time does not attend as required, the Principal must notify the Registrar.

Clause 84. Parent to enrol child in school, &c., on revocation of approval of approved home education program

Where approval for a parent to provide a home education program is revoked, the parent must take steps within the time specified to enrol the child in a school or an approved learning program if relevant to the age of the child.

Clause 85. Providing learning program or notifying of home education

If a child who is being home educated is in the year of education commonly known

as Year 10, and is not going to be home educated in the following year, a notice of a proposed learning program for that child must be submitted to the Secretary.

Subdivision 3 – Home education assessments

Clause 86. Purposes of home education assessments

This clause sets out the purposes for which a Registration Officer may carry out a home education assessment.

Clause 87. Carrying out home education assessment

This clause sets out the functions and powers of a Registration Officer when carrying out a home education assessment.

Division 8 – Miscellaneous

Clause 88. Particulars of child

This clause provides that the Minister may require particulars of a child or youth from a parent and the parent must provide them. For example evidence of identity and date of birth.

Clause 89. Guidelines relating to enrolment for part-time schooling

This section provides for the administrative body of a school to issue guidelines for that school about the determination of applications for the part time enrolment of a home educated student.

Clause 90. Statement of Year 10 completion certificate by principal

Where a Principal is satisfied that a student at the school has completed Year 10, the Principal will issue a statement certifying that completion.

Clause 91. Statement of Year 10 completion certificate by Registrar

Where the Registrar is satisfied that a home educated student has completed the equivalent to Year 10, the Registrar will issue a statement certifying that completion.

Clause 92. Year 12 completion certificate by principal

Where a Principal is satisfied that a student has completed Year 12, the Principal will issue a certificate of completion of Year 12 to that student.

Clause 93. Year 12 completion certificate by Registrar

Where the Registrar is satisfied that a home educated student has completed the year that is equivalent to Year 12, the Registrar will issue a certificate of completion of Year 12 to that student.

PART 4 – EDUCATION AND TRAINING AFTER SECONDARY EDUCATION

Clause 94. Entitlement to complete secondary education at State school

This clause provides for people who left school without completing their entitlement to secondary education to return to a State School for a period up to 8 consecutive terms to complete that entitlement.

Clause 95. Attending State school after compulsory education
This clause allows students who wish to undertake one additional year after year 12 (commonly known as Year 13) to apply to a State School to undertake that year. The Principal must assess the application in accordance with Secretary's instructions.

Clause 96. Entitlement to attend TasTAFE
This clause provides for people who left school without completing their post year 10 study to complete that study at TasTAFE for a period of up to 8 consecutive terms of full time study.

PART 5 – STATE EDUCATION

Division 1 – Schools

Clause 97. State schools
This clause provides for the establishment and closure of State Schools by the Minister. It also provides for the establishment by the Minister of an intake area or eligible enrolment determination by the Minister in respect of a new school.

Clause 98. Changing purpose of school
This clause provides that the Minister may change the purpose of a school from a school with an intake area to a school for a specified class of students or vice versa.

Clause 99. Enrolment within intake area
The Secretary is to publish updated intake areas at least once every 5 years, and the clause sets out which schools students have an entitlement to enrol in by virtue of intake area.

Clause 100. Enrolment from outside intake area
This clause provides for the circumstances where a student may enrol in a school which takes its intake from an area other than that where the student lives. The clause provides for Secretary's instructions in relation to the manner of determining those circumstances.

Clause 101. Enrolment at certain cases
The clause provides for the Secretary to accept students who have been expelled from or asked to leave another school, and the circumstances in which the Secretary may accept those students.

Clause 102. Support school
This clause provides the circumstances in which a student may be enrolled at a support school.

Clause 103. Dress code
The principal of a State School may develop a dress code for the school in accordance with Secretary's instructions and in consultation with the school association.

Clause 104. Distance education
This clause makes provision for a student to be enrolled in distance education.

Clause 105. Administrative and financial matters
This clause provides that there are a number of administrative and financial matters relating to a State School which the Minister may determine.

Division 2 – Principals

Clause 106. Qualifications of principal
This clause provides that a person may not be Principal of a State School unless he or she is a registered teacher.

Clause 107. Functions of principal
This clause sets out the functions of a Principal in a State School.

Clause 108. Powers of principal generally
This clause sets out the powers of a Principal of a State School to carry out his or her functions.

Division 3 – School associations

Clause 109. School association
This clause establishes school associations for every State School.

Clause 110. Establishment and dissolving of school association
This clause sets out how school associations will be established, amalgamated and dissolved as necessary.

Clause 111. Constitution of school association
This clause sets out how the constitution of a school association will be made and approved.

Clause 112. Amendment to constitution of school association
A constitution of a school association may be amended in accordance with this clause.

Clause 113. Functions of school association
This clause sets out the functions of a school association.

Clause 114. Power to maintain authorised deposit-taking institution account
School associations are permitted to operate bank accounts.

Clause 115. Powers of school association generally
This clause sets out the powers of a school association, and the limitations on those powers.

- Clause 116. Performance and exercise of functions and powers of school association**
This clause sets out the matters which a school association must take into account when exercising its functions and powers and those functions which a school association may not carry out.
- Clause 117. Power of Minister to limit functions and powers of school association**
In urgent situations the Minister may limit the functions or powers of a school association for a period of time.
- Clause 118. Validity of acts of school association**
This clause ensures that a decision or action of a school association is not voided because of an administrative or electoral defect.
- Clause 119. Conflict of interest by member of school association**
A member of a school association must disclose a conflict of interest and must withdraw from any consideration or voting on an issues related to a matter in which that member has a conflict of interest.
- Clause 120. Inspection and audit of accounts of school association**
The accounts of a school association maybe inspected or audited upon the request of the Secretary.
- Clause 121. Annual report of school association**
A school association is to provide a report of its activities to the Principal once every 12 months.
- Clause 122. Secretary's instructions relating to school association**
The Secretary may issue instructions relating to the administration and operation of school associations.
- Clause 123. Immunity from liability of school association member**
This clause protects a school association member from incurring personal liability in respect of an act done in good faith as part of their functions as a school association member.
- Clause 124. Register of school associations**
The Minister is to establish and maintain a register of school associations.
- Division 4 – Educational instruction*
- Clause 125. Curriculum, assessment and reporting**
This clause provides that the curriculum in a State school is to consist of any non-sectarian and secular instruction and courses the Secretary determines.
It further provides that the Secretary may issue Secretary's instructions in respect of any matter relating to the curriculum, teaching practice, homework, assessment and reporting procedures at a State school.

Clause 126. Religious instruction

This clause provides a definition between *general religious education* and *religious instruction* and specifies that religious instruction may only be provided at a State School in accordance with the Secretary's Instructions.

It further provides that religious instruction is not compulsory and that a State School principal may require a parent to notify if the student is not to attend such instruction.

Clause 127. Review relating to education in State schools

This clause provides for the Secretary to carry out any review that is appropriate to assess the quality of education in State schools, and to evaluate the educational programs provided by State schools.

Division 5 – Discipline

Clause 128. Secretary's instructions on unacceptable behaviour at State school

This clause requires the Secretary to make Instructions in relation to unacceptable behaviour and the management of such behaviour.

It also sets out the matters that may be included in the Secretary's Instructions.

Clause 129. Unacceptable behaviour at State school

This clause requires that Principal is to develop a behaviour management policy in relation to students and volunteers at, and visitors to, the school in accordance with the Secretary's Instructions. It also requires the Principal to consult with the School Association and the student representative body in the development of such a policy

Clause 130. Immediate suspension of State school student

This clause provides for the immediate suspension of a State school student and the matters that the Principal must consider prior to immediately suspending a student.

Clause 131. Non-urgent suspension or detention of State school student

This clause provides for the non-urgent suspension or detention of a State school student and the matters that the principal must consider prior to suspending a student, or giving a student detention

Clause 132. Exclusion and expulsion of State school student

This clause provides for the exclusion or expulsion of a State school student and the matters that the principal must consider prior to referring the matter to the Secretary and also provides for the revocation of a suspension, exclusion or expulsion.

Clause 133. Educational instruction while suspended, excluded, expelled or prohibited from attending State school

This clause provides that if a school student, is suspended from attending school, full-time or part-time, the principal is to arrange for, and ensure that the student is provided with, appropriate education during the period of suspension.

It further provides that If a school student, is excluded, expelled or prohibited from attending school, the Secretary may determine the educational instruction of the student.

Clause 134. Review by Secretary of exclusion, expulsion or prohibition from attending State school

This clause provides for the Secretary to review a decision to exclude, expel or prohibit a student from attending a State school.

Clause 135. Appeal against prohibition

This clause provides that a person aggrieved a decision to expel and prohibit of a student may apply to the Magistrates Court (Administrative Appeals Division) for a review of that decision.

Clause 136. Removal of adult for unacceptable behaviour at State school

This clause provides that a Principal of a state School may require an adult person to leave the school premises, or from the school activity and not to re-enter the school or school activity for a period specified by the principal and A person must comply with this requirement.

It further provides for the principal to delegate their powers and functions of this provision to a teacher or staff member, only if the principal is absent from the school or activity

Division 6 – Miscellaneous provisions

Clause 137. Transfer of State school student

This clause requires that Secretary's Instructions may be issued in relation to the transfer of a school student from one class to another class, one course to another course or one State School to another.

Clause 138. Fees, levies and charges relating to attendance at State school

This clause states that tuition fees are not payable for education at a State school, but that the Minister may require an overseas student to pay a fee or charge to attend a State school

State schools may also set levies in respect of incidental costs and expense in accordance with Secretary's instructions.

Clause 139. Policy relating to imposing levies and charges relating to attendance at State school

Each State school must develop a policy in relation to the imposition of levies, the principal must consult with the school association on the development of the policy.

Clause 140. Hire of State school facilities and equipment

This clause provides that the Secretary my hire out any facilities or equipment and any fees charged as approved by the Secretary may be paid to the school for educational purposes.

Clause 141. Educational services

This clause provides that the Secretary to make available any educational services or educational products on payment of any fees and charges the Secretary determine and that those fees are to be paid into any accounts the Secretary directs and for the use of any educational purpose as determined by the Secretary.

Clause 142. Property and equipment

The clause provides that the Secretary may lease property and equipment to or from any person. It further provides that the Secretary may authorise a person to occupy any property of the Department on any terms and conditions the Secretary considers appropriate.

PART 6 – REGISTERED NON-GOVERNMENT SCHOOLS

Division 1 – Non-government school to be registered

Clause 143. How non-government school may be registered

A non-government school may be registered as either a member of a system of schools or as an individual non-government school.

Clause 144. Offence for non-government school not to be registered

It is an offence for a person to operate a non-government school without that school being registered in accordance with the Act.

Division 2 – Systems of non-government schools

Subdivision 1 – Formation of systems of non-government schools

Clause 145. Non-government schools may form system

Eight or more non-government schools may form a system of schools.

Clause 146. Approved authority for system of non-government schools

A system of schools must have an approved authority which is the body responsible for the system of schools. Each school must agree that the approved authority has the power to incur costs on its behalf and to give directions to it for the purpose of ensuring compliance with the Act.

Subdivision 2 – Registration of systems of non-government schools

Clause 147. Application for registration of system of non-government schools

This clause sets out the application process for a system of schools.

Clause 148. Report of Registrar

Before determining an application for registration by a system of schools, the Registration Board must seek a report from the Registrar as to the compliance of the system with the standards prescribed by regulation and a recommendation on whether the application should be granted.

- Clause 149. Opinion of Minister**
Before determining the application for registration of a system of schools, the Registration Board is to seek the view of the Minister.
- Clause 150. Determining application for registration of system of non-government schools**
The Registration Board may grant an application if it is satisfied that the system of schools meets the standards prescribed in regulation. It must not grant registration if the system of schools do not meet the standards.
- Clause 151. Registration of system of non-government schools subject to conditions**
The Registration Board may grant registration of a system of schools with conditions and must state what those conditions are and the details of the conditions.
- Clause 152. Term of registration**
A registered system of non-government schools is registered until the registration is cancelled.
- Clause 153. Certificate of registration of system of non-government schools**
Upon registration, the Registrar is to issue a certificate of registration to the system which states the name and address of the approved authority and the name and address of each of the schools registered in the system.
- Clause 154. Suspension of registration of system of non-government schools**
The Registration Board may suspend the registration of a system of non-government schools for up to 6 months if it is satisfied that the approved authority is not complying with conditions, is not adequately performing its functions, or has failed to follow a direction, or if a school in the system is no longer meets the standards, or of it is in the best interests of students in any one or more of the system schools to do so.
- Clause 155. Cancellation of registration of system of non-government schools**
The Registration Board may cancel the registration of a system of non-government schools if it is satisfied that the approved authority is not complying with conditions, is not adequately performing its functions, or has failed to follow a direction, or if the system is no longer meets the standards, or of it is in the best interests of students in any one or more of the system schools to do so. The registration of the system may also be cancelled if the number of system schools falls below 7.
- Clause 156. Withdrawal from registration of system of non-government schools**
The approved authority may notify that it no longer wishes the system to be registered as a system of schools. The schools which were part of the system continue to be registered as individual schools for 12 months from the date the system ceased to be registered.
- Clause 157. Effect of suspension or cancellation of registration of registered system school on registered system of non-government schools**
If an individual school within the system has its registration suspended or cancelled, that will only affect the system if the number of system schools then falls below 7. If at least 7 schools remain in the system then the system can continue to operate. If

less than 7 schools remain then the system registration will be cancelled.

Subdivision 3 – Registered system schools

Clause 158. Qualification to become member of system of non-government schools

A non-government school can become part of a system if it has been registered for 12 months prior to applying to become part of a system of schools and if it meets the requirements of Clause 146 in respect of the approved authority.

Clause 159. When registration of individual non-government school changes to registration as registered system school

This clause differentiates between schools which were members of the system when it began (founding schools) and schools which become members of the system after it begins (new member school). When a new member school joins a system, its individual registration is cancelled and its registration is as part of the system of schools.

Clause 160. Registration as registered system school subject to conditions

A school which is registered as part of a system may have conditions placed on its registration individually, apart from the registration of the system.

Clause 161. Suspension of registered system school

A registered system school may be suspended from the system and as a registered school if for example it no longer meets the standards for registration of a school or the governing body fails to comply with conditions.

Clause 162. Cancellation of registration of registered system school

A registered system school may have its registration as part of the system of schools cancelled if the Registration Board is satisfied that it (for example) no longer meets the standards for registration of a school.

Clause 163. Withdrawal of school from system of non-government schools

Either an approved authority can give notice that a school is no longer to be part of a system of schools or a school can give notice that it no longer wishes to be part of a system of schools. This clause then makes for provision for that school to seek registration as an individual non-government school.

Division 3 – Registration of individual non-government schools

Subdivision 1 – Registration of new non-government schools

Clause 164. Application for registration of new individual non-government school

A person intending to operate an individual non-government school must apply to the Minister for registration of that school. Such registration is to meet the standards for registration established in regulation.

Clause 165. Report of Registrar for registration of new individual non-government school

Before determining an application for registration by an individual school, the Registration Board must seek a report from the Registrar as to the compliance of

the school with the standards prescribed by regulation and a recommendation on whether the application should be granted.

Clause 166. Providing application for registration of new individual non- government school to Minister

The application from the school, the report of the Registrar and the recommendations of the Registration Board must be provided to the Minister.

Clause 167. Determining application for registration of new individual non- government school

The Minister is to determine whether or not to grant the registration of the individual non-government school. The granting of the application may be with conditions.

Subdivision 2 – Registration of transitioning non-government schools

Clause 168. Application for registration of transitioning non-government school

A transitioning non-government school is a school that was part of a system of schools but is now seeking individual registration. This clause makes provision for that school to apply for individual registration.

Clause 169. Report of Registrar for registration of transitioning non- government school

Before determining an application for registration by a transitioning school, the Registration Board must seek a report from the Registrar as to the compliance of the school with the standards prescribed by regulation and a recommendation on whether the application should be granted.

Clause 170. Determining application for registration of transitioning non- government school

The Registration Board may grant an application if it is satisfied that the transitioning non-government school meets the standards for individual registration of schools prescribed in regulation. It must not grant registration if the transitioning non-government school does not meet the standards.

Subdivision 3 – Renewal of registration of registered individual school

Clause 171. Application for renewal of registration of registered individual school

The governing body of a registered school that wishes to renew the registration of that school must apply to the Registrar no earlier than 12 months and no later than 9 months before the school's registration expires for re registration.

Clause 172. Report of Registrar for renewal of registration of registered individual school

Before determining an application for re registration by a school, the Registration Board must seek a report from the Registrar as to the compliance of the school with the standards prescribed by regulation and a recommendation on whether the application should be granted.

Clause 173. Determining application for renewal of registration of registered individual school

The Registration Board may grant an application if it is satisfied that the non-government school meets the standards for re registration of schools prescribed in regulation. It must not grant registration if the non-government school does not

meet the standards. It may grant conditions on the registration.

Subdivision 4 – General provisions relating to registration of non-government schools

Clause 174. Type of registration

This clause sets out the types of schools which may be registered, for example, - primary schools or secondary schools.

Clause 175. Registration as individual non-government school subject to conditions

This clause provides that a non-government school may be registered with conditions.

Clause 176. Term of registration of individual non-government school

A new school may only be registered on the first occasion for up to 12 months. Upon re registration, or for a transitioning school the term of registration may not exceed 5 years.

Clause 177. Certificate of registration of individual non-government school

Upon granting of registration, the Registrar is to issue a certificate of registration to the governing body of a school.

Clause 178. Suspension of registration of individual non-government school

This clause contains general provisions allowing the Registration Board to suspend the registration of an individual school for up to 12 months.

Clause 179. Cancellation of registration of individual non-government school

The Registration Board may cancel the registration of an individual school if for example it no longer meets the standards for registration or has failed to comply with a condition or direction.

Division 4 – Registration guidelines

Clause 180. Registration guidelines

This clause allows the Registration Board to prepare draft guidelines on the procedures to be followed in the registration of non-government schools and systems of schools. The guidelines are to be approved by the Minister and published.

Division 5 – Registration reviews

Clause 181. Purpose of registration review

A registration review is carried out to assess a non-government school or a system of schools against the standards for the purpose of providing information to the Registrar to assist him or her in preparing a report for the Registration Board.

Clause 182. Request for registration review

Where the Registration Board wishes a registration review to be carried out, it will request the Registrar to cause such a review to be carried out.

Clause 183. Carrying out registration review

This clause deals with the mechanism of carrying out the registration review and states that a member of the Registration Board is entitled to accompany the registration officer during the registration review.

Clause 184. Report on registration review

As soon as practicable after the registration review, the Registrar is to provide the Registration Board with a report into the findings of the review.

Division 6 – Monitoring compliance with this Part and with registration

Subdivision 1 – Monitoring compliance with requirement for non-government schools to be registered

Clause 185. Power to inspect premises, &c., to prevent operation of unregistered non-government school

If a registration officer believes that an unregistered non-government school is being operated in contravention of the Act, the registration officer has powers under the act to inspect those premises.

Subdivision 2 – Registration inspections

Clause 186. Request for registration inspection

The Registration Board may request the Registrar to cause an inspection of a registered non-government school for the purposes of ensuring that the school is complying with the standards for registration.

Clause 187. Carrying out registration inspection

The registration officer is to ensure an inspection is carried out as requested by the Registrar.

Clause 188. Report on registration inspection

After the registration inspection is completed, the registrar is to provide a report to the Registration Board on the outcome of the inspection and the compliance or otherwise of the school with the standards. The Registrar may make recommendations as to the status of the registration of the school.

Clause 189. Fee for registration inspection

The Registration Board, with the approval of the Minister may set a fee for registration inspections.

Subdivision 3 – Powers of registration officers

Clause 190. Powers of registration officer in relation to unregistered premises

This clause sets out the powers of a registration officer when carrying out an inspection of premises which may be being operated as an unregistered non-government school.

- Clause 191. Powers of registration officer in relation to registered premises**
This clause sets out the powers of a registration officer when conducting an inspection of registered premises.
- Clause 192. Warrant to seize document, &c.**
If a registration officer believes that there is a document on registered premises which is evidence of an offence under the Act, the registration officer may apply to a justice for a warrant.
- Clause 193. Warrant to enter residence**
A registration officer may apply for a warrant to enter premises, including a residence, if the registration officer believes that there is an unregistered school being operated from the premises or that a document relevant to a breach of the Act by a registered school is on the premises.
- Clause 194. Requirement to provide information, document or thing**
A registration officer may require an approved authority or a governing body to produce a document which is relevant to a registration review or inspection.
- Clause 195. Possession of document by Registrar**
If a registration officer takes possession of a document, that document may be retained by the Registrar for as long as necessary however the Registrar may provide a certified copy of the document to the person or organization who would usually have possession of it.
- Clause 196. Using assistant**
While exercising the powers conferred by this subdivision, the registration officer maybe accompanied by any person to assist as the Registrar considers appropriate.
- Clause 197. Obstruction, &c., of registration officer**
It is an offence to assault, resist, impede or obstruct a registration officer carrying out their duties.
- Division 7 – Reviews of determinations*
- Clause 198. Review of determination**
This clause sets out which determinations of the Registration Board and Minister are reviewable by the Magistrates Court (Administrative appeals Division).
- Division 8 – Principals*
- Clause 199. Qualifications of principal**
This clause provides that a person may not be Principal of a registered non-government school unless he or she is a registered teacher.
- Clause 200. Functions of principal**
This clause sets out the functions of a Principal in a registered non-government

school.

Clause 201. Removal of adult for unacceptable behaviour

A principal of a non-government school may request an adult present at the school or at a school related activity to leave if that person's behaviour is unacceptable. A failure to comply with the principal's requirement is an offence.

Division 9 – Grants

Clause 202. Purpose of this Division

The purpose of the division is to allow the Minister to make grants to non-government schools for the purpose of delivery of education.

Clause 203. Grant

This clause provides that the Minister may make a grant and how that grant is to be made.

Clause 204. Amount of grant

This clause sets out how the grant is to be calculated.

Clause 205. Use of grant

A grant is only to be used for specific purposes relating to the running of the school.

Clause 206. Additional grant

The governing body of a school may apply for an additional grant for an educational purpose or to offset a capital expenditure.

Clause 207. Amount and use of additional grant

This clause provides for how an additional grant is to be used and how the amount of the grant is determined.

Clause 208. Grant or additional grant paid to other person

The governing body can request that the grant be paid to another body such as an independent schools grant authority.

Clause 209. Grant and additional grant subject to conditions

The Minister may make grants and additional grants subject to conditions.

Clause 210. Certificate certifying use of grant or additional grant

The governing body of a school must certify that the grant was used for the purposes for which it was made.

Clause 211. Access to school records

A school which receives a grant must provide access to school and financial records relating to the delivery of education if requested by the Minister.

Clause 212. Provision of further information relating to use of grant

The Minister may seek further information as to the use of the grant or additional

grant from a school.

Clause 213. Refund of grant and additional grant

A grant may be refunded if the registration of the school is cancelled, or if the school has breached a condition of the grant or contravened other sections of the Act.

Division 10 – Non-government Schools Register

Clause 214. Non-government Schools Register

The Registrar is to keep a register of registered non-government schools.

PART 7 – OFFICE HOLDERS, STATUTORY BODIES AND CONCILIATORS

Division 1 – Principal Officer, Non-attendance

Clause 215. Appointment of Principal Officer, Non-attendance

This clause provides for the Secretary to appoint a State Service Officer or a State Service employee employed in the Department of Education as the Principal Officer, Non-attendance.

This clause also provides for that officer to hold this office in conjunction with State Service Employment.

Clause 216. Functions of Principal Officer, Non-attendance

This clause provides for functions of the Principal Officer, Non-attendance.

It provides for the Principal Officer, Non-attendance to make Compulsory Schooling Orders if appropriate, and to perform any other function imposed by this Act.

Clause 217. Powers of Principal Officer, Non-attendance

This clause provides for the powers of the Principal Officer, Non-attendance.

It provides for the Principal Officer, Non-attendance to do all things necessary or convenient to perform his or her functions and specifies the powers that this Officer does not have.

Division 2 – Registrar, Education

Subdivision 1 – Appointment, functions and duties of Registrar, Education

Clause 218. Appointment of Registrar, Education

This clause provides for the appointment of the Registrar, Education subject to, and in accordance with the *State Service Act 2000*.

Clause 219. Functions of Registrar, generally

The clause provides for the Registrar to perform any functions imposed by the Act.

Clause 220. Powers of Registrar

This clause provides for the powers of the Registrar.

It provides for the Registrar to do all things necessary or convenient to perform his or her functions and specifies the powers that the Registrar does not have.

Clause 221. Delegation by Registrar

This clause provides for the Registrar to delegate to a State Service officer or State Service employee employed in the Department any of his or her functions or powers under this Act other than this power of delegation.

Subdivision 2 – Specific functions of Registrar

Clause 222. Functions of Registrar in relation to student absenteeism

This clause specifies the functions of the Registrar in relation to student absenteeism and compulsory conciliation conferences.

Clause 223. Functions of Registrar in relation to non-government schools and the Registration Board

This clause specifies the functions of the Registrar in relation to non-government schools and the Registration Board.

It provides for the Registrar to oversee registration reviews and registration inspections and to provide reports and recommendations, in relation to applications for the registration of systems of non-government schools, new individual non-government schools and transitioning non-government schools; and the renewal of registration of registered individual schools.

Clause 224. Functions of Registrar in relation to home education

This clause specifies the functions of the Registrar relation to home education.

It provides for the Registrar to assess and determine applications for registration of a person as a home educator, assess and determine applications for approval of a proposed home education program, and to provide administrative support to the Tasmanian Home Education Advisory Council

Clause 225. Register of home educators and approved home education programs

This clause requires that the Registrar is to maintain an up-to-date register of approved home education programs and persons who are home educators under those programs.

Clause 226. Guidelines relating to home education issued by Registrar

This clause requires that the Registrar issue guidelines relating to home education in consultation with the Tasmanian Home Education Advisory Council.

It also outlines how these guidelines may be amended or revoked with substitute guidelines issued. This clause further specifies how these guidelines including any amendments or revocation are to be published in a manner as determined by the Registrar.

Clause 227. Annual report by Registrar

This clause requires that the Registrar is to provide to the Secretary a report on performance and exercise of his or her functions and powers for the period of 12 months that ended on the last preceding 30 June, including the activities of the

Review Panel during that period.

Division 3 – Registration officers

Clause 228. Appointment of registration officers

This clause provides for the Secretary to appoint Registration Officers who are State Service officers or State Service employees.

In addition, this clause requires that identity cards must be issued to these officers, and what each identify card must contain.

Division 4 – Non-government Schools Registration Board

Clause 229. Non-government Schools Registration Board

This clause provides for the establishment and membership of the Non-government Schools Registration Board.

Clause 230. Functions of Registration Board

The clause provides for the Registration Board to perform any functions imposed by the Act.

It provides for the Registration Board to hear and determine applications for the registration, and renewal of registration, of individual non-government schools, or a system of schools and to make recommendations to the Minister in respect of the registration of a new established school.

It further provides for the Registration Board to oversee the monitoring of registered systems of non-government schools, registered system schools and registered individual schools and ensure that they comply with the standards, prescribed by the regulations.

Clause 231. Powers of Registration Board

This clause provides for the powers of the Registration Board.

Clause 232. Financial records of Registration Board

This clause requires that the Registration Board is to keep correct accounts of its receipts and expenditure.

Clause 233. Annual report by Registration Board

This clause requires that the Registration Board to submit to the Secretary by 15 August in each year a report on its activities for the previous financial year.

Division 5 – Review Panel

Subdivision 1 – Establishment of Review Panel

Clause 234. Establishment of Review Panel

This clause establishes the Review Panel which is constituted by the chairperson and 2 other members for purposes of determining an application for a review of the determination of the Principal Officer, Non-attendance to make a Compulsory

Schooling Order.

Clause 235. Functions of Review Panel

This clause provides for the functions of the Review Panel which is to review determinations by the Principal Officer, Non-attendance to make Compulsory Schooling Orders, and to perform other functions imposed by this Act.

Clause 236. Powers of Review Panel

This clause provides for the powers of the Review Panel

It provides for the review Panel to do all things necessary or convenient to perform his or her functions, and specifies the powers that the Review Panel does not have.

Subdivision 2 – Members of Review Panel

Clause 237. Expressions of interest to be members of Review Panel

This clause provides for the Registrar to call for expressions of interest by persons to be members of the Review Panel.

Clause 238. Register of persons who may constitute Review Panel

This clause requires that the Registrar is to maintain an up-to-date register of persons who may be appointed as members of the Review Panel.

It further provides for the Registrar to publish the register in such manner, and at such times, as he or she considers appropriate.

Clause 239. Withdrawal by person from inclusion on register maintained under section 243

This clause provides that a person listed on the register may request the Registrar, in writing, to remove his or name and details from the register. This clause requires that the Registrar to comply with this request.

Clause 240. Removal of person from register maintained under section 243

This clause provides for the Registrar to remove a person's name and details from the register if the person has contravened the Act; or the Registrar considers that the person no longer has the appropriate qualifications and experience to be a member of the Review Panel.

Division 6 – Tasmanian Home Education Advisory Council

Clause 241. Establishment of Tasmanian Home Education Advisory Council

This clause establishes the Tasmanian Home Education Advisory Council.

Clause 242. Functions of Tasmanian Home Education Advisory Council

The clause outlines the functions of the Tasmanian Home Education Advisory Council.

It requires that the Council is to provide the Registrar, when requested, with advice in relation to applications for approval of a proposed home education program.

It also requires that the Council is to provide the Minister and the Registrar with advice in relation to home education and such other functions as the Minister

determines. These such other functions as are prescribed.

Clause 243. Powers of Tasmanian Home Education Advisory Council

This clause provides for the powers of the Tasmanian Home Education Advisory Council.

Division 7 – Employees generally

Clause 244. Employees

This clause provides for persons to be appointed or employed for the purposes of this Act, subject to and in accordance with the *State Service Act 2000*.

Division 8 – Staff, assistance and facilities

Clause 245. Staff, assistance and facilities

This clause provides for the Secretary to arrange for the services of State Service officers or State Service employees employed in the department, or facilities or other assistance to be made available to persons and bodies including: the Principal Officer, Non-attendance, the Registrar, the Non-government Schools Registration Board, the Review Panel, the Tasmanian Home Education Advisory Council, and a conciliator.

PART 8 – MISCELLANEOUS PROVISIONS

Clause 246. Financial assistance

The Secretary may grant financial assistance to a student at a State school or TasTAFE who meets the entitlement to assist with the provision of essential materials, spectacles or accommodation costs after the completion of Year 10.

Clause 247. Employment of children

A person is not to employ a school aged child or a youth at a time when that child or youth is required to attend school, undertake home education or participate in an individual education plan. To do so constitutes an offence under the Act.

Clause 248. Corporal punishment in schools

This clause specifies that a principal of a school, the chief executive officer of TasTAFE or a staff member of a school or TasTAFE must not administer corporal punishment to a student of that school.

It also specifies the penalty of a fine not exceeding 100 penalty units.

Clause 249. Minister's advisory councils

This clause provides that the Minister may establish any advisory council the Minister considers necessary to advise and assist the Minister in the exercise of powers and the performance of functions under the Act.

It further provides that the Minister may appoint persons as members of an advisory council on any conditions the Minister considers appropriate.

Clause 250. Secretary's advisory councils

This clause provides that the Secretary may establish any advisory council the Secretary considers necessary to advise and assist the Secretary in the exercise of powers and the performance of functions under this Act.

It further provides that that Secretary may appoint persons as members of an advisory council on any conditions the Secretary considers appropriate.

Clause 251. Hostels

This clause provides for the Minister to enter into an agreement with any person or organisation to provide a hostel for school students. It further provides for a person or organisation providing a hostel must comply with the Secretary's instructions relating to the management of the hostel.

Clause 252. Delegation by Minister

This clause provides for the Minister to delegate to any person any of his or her functions or powers under this Act, other than this power of delegation.

Clause 253. Delegation by Secretary

This clause provides for the Secretary to delegate to any person any of his or her functions or powers under this Act, other than a function or power prescribed by the regulation to be non-delegable and this power of delegation.

Clause 254. Immunity from liability

A member of the registration Board, Review Panel or a council or committee established under the Act will not incur any personal liability for acting in good faith in accordance with the Act.

Clause 255. False or misleading statements

This clause provides that a person must not give false or misleading statements in giving information under this Act.

Clause 256. Prosecution for offence

A prosecution for an offence under this Act must be undertaken within 1 year of the commission of the offence.

Clause 257. Evidence and presumptions

This clause sets out those matters which are to be presumed to be evidence of those matters by a court unless the contrary is proved.

Clause 258. Appropriation

This clause provides for any financial assistance payable for educational purposes, and for any grant or additional grant payable to registered non-government schools to be paid from money provided by Parliament

Clause 259. Regulations

This clause provides for the Governor to make regulations for the purposes of this

Act. It outlines matters that might be prescribed in Regulations.

Clause 260. Administration of Act

This clause specifies that Until provision is made in relation to this Act by order under section 4 of the Administrative Arrangements Act 1990, the administration of this Act is assigned to the Minister for Education and Training, and the department responsible to that Minister in relation to the administration of this Act is the Department of Education.

Clause 261. Savings and transitional provisions

This clause provides for the savings and transitional provisions specified in Schedule 5 to have effect.

Clause 262. Legislation repealed

This clause provides for the legislation in Schedule 6 to be repealed.

Clause 263. Legislation rescinded

This clause provides for the legislation in Schedule 7 to be rescinded.

Clause 264. Legislation revoked

This clause provides for the legislation in Schedule 8 to be revoked.

SCHEDULE 1 – SAVINGS AND TRANSITIONAL PROVISIONS IF SCHOOL ASSOCIATION DISSOLVED

Clause 1. Interpretation

This clause provides definitions for the purposes of the Schedule.

Clause 2. Application of Schedule

This schedule applies to the dissolution of a school association.

Clause 3. Property, rights, liabilities and obligations

This clause provides for the transfer of property or rights vested in a school association upon the dissolution of a school association.

Clause 4. Legal matters

This clause provides for dealing with legal proceedings against school associations if the association is dissolved.

Clause 5. Remaining property and liabilities &c.

This clause details how to deal with remaining property or liabilities upon dissolution of the school association.

Clause 6. Remaining contracts

This clause details how to deal with contracts which have not been completed at the time a school association is dissolved.

Clause 7. Remaining documents

This clause details how to deal with documents which have not been served or issued at the time a school association is dissolved.

SCHEDULE 2 – PROVISIONS WITH RESPECT TO MEMBERSHIP AND MEETINGS OF REGISTRATION BOARD

Clause 1. Interpretation

This clause defines terms used in Schedule 2.

Clause 2. Term of office

This clause provides that a Registration Board member is appointed for a maximum appointment of three years, as specified in the member's instrument of appointment. It also provides that if eligible, a member may be reappointed.

Clause 3. Holding other office

This clause provides that a person who holds other employment can be appointed to the Registration Board and may also be remunerated.

Clause 4. *State Service Act 2000*

This clause provides that a person may be a Board member and a State Service officer/employee, and that the *State Service Act 2000* does not apply to the person in his/her capacity as a Board member.

Clause 5. Remuneration and conditions of appointment

This clause provides for a Board member to be paid remuneration and allowances as the Minister determines. It further provides that a State Service Officer/employee may not be remunerated as a member except with the approval of the Minister administering the State Service Act.

Clause 6. Vacation of office

This clause specifies when a member is deemed to have vacated office, and also specifies when the Minister may remove a member of office.

Clause 7. Filling of vacancies

This clause provides that in the event a position becomes vacant, enables the Minister to appoint a person to complete the term of appointment.

Clause 8. Validation of proceedings, &c.

This clause provides that an act or proceeding of the Board or a board member is valid in the event of a vacancy or a defect in the appointment of a member.

Clause 9. Presumptions

This clause provides that in any proceeding by or against the Registration Board, unless evidence is given to the contrary, proof is not required of the constitution of the Registration Board, or the appointment of any member.

Clause 10. Convening of meetings

This clause specifies the procedures for the convening of meetings and the process should the chairperson be absent from duty or other unable to perform the duties of officer.

Clause 11. Presiding at meetings

This clause requires that the Chairperson is to preside at all meetings at he or she is present at, and if not present, a member elected by the members present is to preside.

Clause 12. Quorum and voting at meetings

This clause defines the quorum required for a Registration Board meeting to be convened, and describes the process for voting on an issue.

Clause 13. Conduct at meetings

This clause provides for Registration Board to manage its own meetings and for flexibility in participation using technology.

Clause 14. Resolutions without meetings

This clause provides for out-of-session decisions by a majority of the Registration Board members.

Clause 15. Disclosure of interests

This clause requires that as soon as it arises, members must declare a conflict of interest. Describes the process the Registration Board must follow in considering an issue in which a member has declared a conflict of interest.

Clause 16. Right of Registrar to attend meeting

This clause provides that the Registrar is entitled to attend all meetings of the Registration Board. It further provides that Registrar is to provide information and advice to the Board, but may not otherwise participate in the Meeting.

It is also specifies that the Registrar may not vote at a meeting of the Registration Board.

Clause 17. Minutes

This clause requires that the Registration Board is to keep accurate minutes of its meetings.

Clause 18. General procedure

This clause provides that the Registration Board can regulate its own proceedings.

Clause 19. Presumptions

This clause provides for presumption that in any legal proceeding against the Registration Board, the Board is taken to have followed appropriate procedures unless this is contested with evidence.

SCHEDULE 3 – PROVISIONS WITH RESPECT TO MEMBERSHIP AND MEETINGS OF REVIEW PANEL

- Clause 1. Interpretation**
This clause defines terms used in Schedule 3.
- Clause 2. Term of office**
This clause provides that a person is appointed to the Review Panel until the completion of a review, in respect of which he or she was appointed.
- Clause 3. Holding other office**
This clause provides that a person who holds other employment can be appointed to the Review Board and can also be remunerated.
- Clause 4. *State Service Act 2000***
This clause provides that the *State Service Act 2000* does not apply to the person in his/her capacity as a Review Panel member. It further provides that a person may hold the office of member in conjunction with State Service employment
- Clause 5. Remuneration and conditions of appointment**
This clause provides for a Review Panel member to be paid remuneration and allowances as the Minister determines. It further provides that a State Service Officer/employee may not be remunerated as a member except with the approval of the Minister administering the State Service Act.
- Clause 6. Vacation of office**
This clause specifies when a member is deemed to have vacated office, and also specifies when the Minister may remove a member of office if satisfied that the member is unable to perform adequately or competently.
- Clause 7. Filling of vacancies**
This clause provides that If the office of the chairperson or another member becomes vacant, the Minister may appoint as the chairperson or another member a person listed on the register maintained under section 238 for the purposes of determining an application for a review.
- Clause 8. Validation of proceedings, &c.**
This clause provides that an act or proceeding of the Board or a board member is valid in the event of a vacancy or a defect in the appointment of a member.
- Clause 9. Presumptions**
This clause provides that in any proceeding by or against the Review Panel, unless evidence is given to the contrary, proof is not required of the constitution of the review panel, or the appointment of any member.
- Clause 10. Sittings**
This clause provides that the Review Panel is to sit at the times and places determined by the chairperson.
- Clause 11. General principles**
This clause provides that Review Panel is to proceed with as little formality and as

expeditiously as a proper consideration of the matter allows.

Clause 12. Privacy

This clause provides that sittings and determinations of the Review Panel are not open to the public.

Clause 13. Voting

This clause provides that questions for the determination of the Review Panel are to be determined by a majority of votes of the members present and voting.

Clause 14. Procedure of Review Panel

This clause provides that Ministerial instructions may provide for matters relating to the regulation of the proceedings for the sittings of the Review Panel, and Except as otherwise provided by this Act and the Ministerial instructions, the Review Panel may regulate its own proceedings for sittings.

SCHEDULE 4 – PROVISIONS WITH RESPECT TO MEMBERSHIP AND MEETINGS OF TASMANIAN HOME EDUCATION ADVISORY COUNCIL

Clause 1. Interpretation

This clause defines terms used in Schedule 4.

Clause 2. Term of office

This clause provides that a Tasmanian Home Education Advisory Council member is appointed for a maximum appointment of three years, as specified in the member's instrument of appointment. It also provides that if eligible, a member may be reappointed.

Clause 3. Holding other office

This clause provides that a person who holds other employment can be appointed to the Tasmanian Home Education Advisory Council and may also be remunerated.

Clause 4. State Service Act 2000

This clause provides that the *State Service Act 2000* does not apply to the person in his/her capacity as a Council member. It further provides that a person may hold the office of member in conjunction with State Service employment.

Clause 5. Remuneration and conditions of appointment

This clause provides for a Tasmanian Home Education Advisory Council member to be paid remuneration and allowances as the Minister determines. It further provides that a State Service Officer/employee may not be remunerated as a member except with the approval of the Minister administering the State Service Act.

Clause 6. Vacation of office

This clause specifies when a member is deemed to have vacated office, and also specifies when the Minister may remove a member of office.

Clause 7. Filling of vacancies

This clause provides that in the event a position becomes vacant, enables the

Minister to appoint a person to complete the term of appointment.

Clause 8. Validation of proceedings, &c.

This clause provides that an act or proceeding of the council or a council member is valid in the event of a vacancy or a defect in the appointment of a member.

Clause 9. Presumptions

This clause provides that in any proceeding by or against the Tasmanian Home Education Advisory Council, unless evidence is given to the contrary, proof is not required of the constitution of the Council, or the appointment of any member.

Clause 10. Convening of meetings

This clause specifies the procedures for the convening of meetings and the process should the chairperson be absent from duty or other unable to perform the duties of officer.

Clause 11. Presiding at meetings

This clause requires that the Chairperson is to preside at all meetings at he or she is present at, and if not present, a member elected by the members present is to preside.

Clause 12. Quorum and voting at meetings

This clause defines the quorum required for a Tasmanian Home Education Advisory Council meeting to be convened, and describes the process for voting on an issue.

Clause 13. Conduct of meetings

This clause provides for the Tasmanian Home Education Advisory Council to manage its own meetings and for flexibility in participation using technology.

Clause 14. Resolutions without meetings

This clause provides for out-of-session decisions by a majority of the Tasmanian Home Education Advisory Council members.

Clause 15. Right of Registrar to attend meeting

This clause provides that the Registrar is entitled to attend all meetings of the Tasmanian Home Education Advisory Council. It further provides that Registrar is to provide information and advice to the Council, but may not otherwise participate in the Meeting.

It is also specifies that the Registrar may not vote at a meeting of the Tasmanian Home Education Advisory Council.

Clause 16. Minutes

This clause requires that the Tasmanian Home Education Advisory Council is to keep accurate minutes of its meetings.

Clause 17. General procedure

This clause provides that the Tasmanian Home Education Advisory Council can regulate its own proceedings.

Clause 18. Presumptions

This clause provides for presumption that in any legal proceeding against the Tasmanian Home Education Advisory Council, the Council is taken to have followed appropriate procedures unless this is contested with evidence.

SCHEDULE 5 – SAVINGS AND TRANSITIONAL PROVISIONS

Clause 1. Interpretation

This clause provides definitions for the Schedule.

Clause 2. Pre-compulsory education

S46 of the former Act continues to apply until 31 December 2009

Clause 3. Exemption of school-aged child to be enrolled or home educated

This clause provides that an exemption from enrolment made prior to the commencement day is taken to be an exemption from enrolment under this Act

Clause 4. Part-time attendance

This clause provides for a part time enrolment granted under the former Act to continue under this Act and for an application made but not determined on commencement day to be taken to be an application made under this Act.

Clause 5. Objection to participation in school activities

This clause provides that a notice stating that a child not participate in activities made before the commencement date is taken to be a notice given under this Act.

Clause 6. Statement of Year 10 completion

This clause provides that if a child enrolled in a school in 2016 opened a participation record, that child is taken to have been issued with a Year 10 completion certificate.

Clause 7. Youth participation in approved learning program or home education

This clause provides that a participation record that has effect immediately before the commencement day is taken to be an approved learning program. It also provides for who is to receive copies of the participation record for exemptions from participation.

This clause also provides that the leaving age will remain at 17 years of age until 1 January 2020 when it will move to 18.

Clause 8. Registration as home educator

If immediately before the commencement day, a person is registered as a home educator with a home education support plan, that plan is taken to be in force until it expires.

Clause 9. Entitlement to complete secondary education

This clause ensures the continuation of the entitlement to complete secondary education.

- Clause 10. Attending State school after compulsory education**
This clause ensures the continuation of the entitlement to apply to undertake the year commonly known as Year 13, and ensures that a person who was accepted to complete that year before commencement day can complete that year.
- Clause 11. Entitlement to attend TasTAFE**
This clause ensures the continuation of the entitlement to complete secondary education at TasTAFE.
- Clause 12. Intake area**
The intake area determined by the Minister before the commencement day is taken to be the intake area for a school until the Secretary determines otherwise.
- Clause 13. Application of section 99**
This clause provides that if an intake area is adjusted after commencement day, those children enrolled in the school remain enrolled regardless of any adjustment made.
- Clause 14. School associations**
School associations which exist at commencement day are continued as school associations under this Act and the constitutions continue in force until the Minister approves a new one.
- Clause 15. Expulsions**
The repeal of the former Act does not affect the expulsion of a student who was expelled before commencement day.
- Clause 16. Discipline instructions**
Discipline instructions made under the former Act remain in place until new ones are issued under this Act.
- Clause 17. Fees, levies and charges**
A levy that remains unpaid at commencement day becomes a debt owed to the Crown.
- Clause 18. Lease, hire or loan of property, facilities, equipment and material**
This clause provides for dealing with contracts made prior to commencement day.
- Clause 19. Registration of school continues**
A school registered before commencement day is taken to be an individual registered school.
- Clause 20. Reviews and inspections**
This clause provides for dealing with reviews and inspections begun or carried out before commencement day.
- Clause 21. Grants**
This clause provides for the continuation of grants made or applied for prior to the

commencement day.

Clause 22.

Subsidies

This clause provides for dealing with subsidies made or granted under the former Act.

Clause 23.

Principals of registered schools

This clause provides that a principal of a non-government school who does not have the qualifications required by the Act may continue in his or her role as principal until the end of that contract.

Clause 24.

Employees generally

A person appointed or employed as a State servant under the former Act continues in that employment for the purposes of this Act.

Clause 25.

Authorised persons

This clause makes provision for the continuation of authorised persons authorised under the former Act.

Clause 26.

Former Advisory Council

This clause provides for the continuation of the Tasmanian Home Education Advisory Council.

Clause 27.

Former Registration Board

This clause provides for the continuation of the Schools Registration Board as the Non-government Schools Registration Board.

Clause 28.

Legal proceedings

This provision provides for dealing with legal proceedings against the Registration Board.

Clause 29.

Interpretation of Part

This clause provides definitions for this Part.

Clause 30.

Tasmanian Academy and colleges

This clause abolishes the Tasmanian Academy and makes the remaining colleges under the Academy State schools.

Clause 31.

Academy association

The clause abolishes the Academy association.

Clause 32.

Fees, levies and charges

This clause makes an unpaid levy imposed under the Academy Act a debt owing to the Crown.

Clause 33.

Lease or hire of property, facilities, materials and equipment

This clause provides for dealing with lease agreements entered into under the Academy Act.

Clause 34. College associations

This clause provides that existing college associations created under the Academy Act continue as State school associations under this Act.

Clause 35. Financial assistance

This clause provides that grants of assistance made before the commencement of the Act must still be paid under this Act.

SCHEDULE 6 – LEGISLATION REPEALED

This Schedule provides for the following legislation to be repealed:

Education Act 1994 (No. 86 of 1994)

Youth Participation in Education and Training (Guaranteeing Futures) Act 2005 (No. 13 of 2005)

Education and Training (Tasmanian Academy) Act 2008 (No. 42 of 2008)

Education and Training (Repeals and Transitional Provisions) Act 2008 (No. 43 of 2008)

Education and Training (Transitional Provisions) Act 2010 (No. 24 of 2010)

SCHEDULE 7 – LEGISLATION RESCINDED

This Schedule provides for the following legislation to be rescinded:

Education and Training (Tasmanian Academy) Regulations 2011 (No. 3 of 2011)

Education Regulations 2015 (No. 40 of 2015)

SCHEDULE 8 – LEGISLATION REVOKED

This Schedule provides for the following legislation to be revoked:

Proclamation under the Education Amendment Act 2003 (No. 185 of 2003)