

FACT SHEET

Education Bill 2016

This legislation gives effect to decisions arising from the Review of the *Education Act 1994*, which commenced in September 2014.

The Education Act establishes the compulsory years of schooling in Tasmania and regulates the State (government), Catholic and independent education sectors, and home education. Some parts of the Act are relevant to all students and sectors (eg, enrolment and attendance), other parts deal specifically with State schools or registered schools (Catholic and independent), or home education.

The *Education Act 2016* will replace the current *Education Act 1994*, *Youth Participation in Education and Training (Guaranteeing Futures) Act 2005* and the *Education and Training (Tasmanian Academy) Act 2008*.

Currently, the Education Act prescribes the compulsory years of schooling, including the requirement for children to complete the year in which they turn 16 (generally Year 10). The *Youth Participation in Education and Training (Guaranteeing Futures) Act 2005* then requires students to remain in education and training until they turn 17 (usually Year 11).

The *Education and Training (Tasmanian Academy) Act 2008* regulates some colleges in the State school system. The Academy Act is the last vestige of the Tasmania *Tomorrow* initiative. It was not considered as part of the public vocational education and training review undertaken by Virginia Simmons in 2012 as it was outside the scope of that work.

The main changes are outlined below.

The Bill contains Objects and Principles to reflect the purpose of the Act and the principles that underpin education in Tasmania.

The Bill will extend the compulsory years of education and training by:

- establishing a minimum school starting age of 4 years and 6 months with the compulsory school starting age remaining at 5,
- enabling children to attend kindergarten in the year before Prep from 3 years and 6 months; and
- extending the minimum education and training leaving requirements to completion of year 12, certificate III or 18, whichever occurs first.

The exemption from the education and training leaving requirements on the basis of employment continues. The employment requirement has been increased from 25 hours to 35 hours a week in line with the Australian Bureau of Statistics' definition of full-time employment.

These changes will take effect in 2020.

There are new measures to support attendance and participation:

- a new compulsory conciliation conference process to help resolve the reasons for chronic unexplained non-attendance,
- collection of information in regard to behaviour of children who have conditions where their behaviour poses a risk of harm to themselves or others so that risk management plans can be developed to minimise or alleviate those risks,
- formalised arrangements for students with disability that enable dual enrolment across support and mainstream schools, and between the government and non-government sectors, and
- the ability to enable children who are home educated to partially enrol in a school as part of their home education program.

A statutory officer, Registrar – Education, has been created to manage the administration of compulsory conciliation conferences, non-government school registration and home education regulation. This position is independent of the Department of Education. It replaces a part-time registrar position that supported the Schools Registration Board.

State schools

The behaviour management and discipline framework has been updated to ensure best practice approaches such as restorative justice are exhausted before suspension can be used, unless there is an immediate need to remove a student who is posing a risk to other students or staff. Where a student is suspended, alternative educational arrangements must be made.

The Secretary will be responsible for determining home areas, which are now called intake areas, for schools at least every five years.

School associations are incorporated under the Education Act rather than under the *Associations Incorporation Act 1964*. Incorporation will provide legal protections as well as a platform for school associations to continue to be able to apply for grants.

The Department received advice that incorporation would not protect individual members from being sued in addition to an association. A new provision has been included to provide immunity from liability of an association member where they have acted in good faith. The liability will instead rest with the Crown.

Associations will need the Secretary's approval to employ staff, own property, borrow money or enter into contracts over a certain amount. This will, for example, enable the Secretary to ensure that proper governance and risk management strategies are in place to protect associations and not expose the Crown to unnecessary risk.

Non-government schools

The Schools Registration Board has been renamed to more accurately reflect its role. It is now the Non-government Schools Registration Board. Board membership remains

representative and a skills requirement has been added to strengthen the skills base of the Board.

Registration options have been expanded and tailored so that schools can apply to register as a new school, to re-register as an existing school, or as systems of schools.

The Board will now have more flexibility as it will be able to register with conditions where the outstanding issues do not put students or staff at risk and where the deficiency can be rectified within a timeframe set by the Board.

Standards against which non-government schools are assessed will be in Regulation.

Home education

Provisions regulating home education have been expanded from one section in the current Act to reflect current administrative processes as far as is possible.

The Tasmanian Home Education Advisory Council is established by the Bill. The majority of Council members will be people with home education experience.

Standards for home education programs will be in Regulation.

Transitional provisions

- Transitional matters including:
 - continuation of the current compulsory school starting age until 1 January 2020,
 - continuation of the current minimum education and training leaving age of 17 until 1 January 2020,
 - continuation of terms of members the Schools Registration Board as the initial members of the Non-government Schools Registration Board,
 - continuation of the terms of members of the Tasmanian Home Education Advisory Council as initial members of the Tasmanian Home Education Advisory Council,
 - continuation of registration of existing non-government schools,
 - continuation of registration of existing home educators,
 - continuation of a range of operational decisions such as approvals for exemption from the requirement to enrol, for part-time attendance and disciplinary sanctions,
 - continuation of school associations,
 - cancellation of incorporation of school associations under the *Associations Incorporation Act 1964* as they will be incorporated under the *Education Act 2016*, and
 - transfer of documents, contracts and legal matters.

- A number of Acts will also be repealed as set out in the Bill.