



Queensland

Education Legislation Amendment Act 2013

Act No. 37 of 2013



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Education Legislation Amendment Act 2013

Act No. 37 of 2013

An Act to amend the Child Care Act 2002, Education (Accreditation of Non-State Schools) Act 2001, Education (General Provisions) Act 2006 and the Education (Queensland Studies Authority) Act 2002

[Assented to 29 August 2013]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Education Legislation Amendment Act 2013*.

2 Commencement

The following provisions commence on 1 January 2015—

- (a) section 7(4);
- (b) sections 13 and 16;
- (c) part 5.

Part 2 Amendment of Child Care Act 2002

3 Act amended

This part amends the *Child Care Act 2002*.

4 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *primary education* and *secondary education*—
omit.
- (2) Schedule 2—
insert—

primary education see the *Education (General Provisions) Act 2006*, schedule 4.

secondary education see the *Education (General Provisions) Act 2006*, schedule 4.

Part 3 **Amendment of Education (Accreditation of Non-State Schools) Act 2001**

5 **Act amended**

This part amends the *Education (Accreditation of Non-State Schools) Act 2001*.

6 **Insertion of new ch 8, pt 4**

Chapter 8—

insert—

Part 4 **Transitional provisions for Education Legislation Amendment Act 2013**

Division 1 **Preliminary**

239 Definitions for pt 4

In this part—

change notice see section 241(4).

commencement means the commencement of this section.

[s 6]

secondary education includes, for 2015 or a later year, education offered in year 7.

year 7 change notice see section 240(2).

Division 2 Schools that offer secondary education or primary and secondary education

240 Notices about offering education for year 7

- (1) This section applies to a school if the school is an accredited school or provisionally accredited school that offers secondary education for year 8.

Examples for subsection (1)—

- 1 a provisionally accredited school that offers primary and secondary education from the preparatory year to year 12
 - 2 an accredited school that offers secondary education from year 8 to year 12
 - 3 an accredited school that offers primary and secondary education from year 5 to year 12
- (2) If the governing body of the school intends that the school starts offering secondary education for year 7 on or after 1 January 2015 and before 1 March 2016, the governing body may give the board a written notice (a *year 7 change notice*) in the approved form.
- (3) The governing body must give the year 7 change notice to the board—
- (a) on or before 31 October 2014; or
 - (b) if the board is satisfied that unforeseen circumstances prevented the governing body from giving the notice on or before 31

October 2014—by a later date allowed by the board.

241 Effect of notice

- (1) This section applies if the governing body of a school gives a year 7 change notice to the board under section 240.
- (2) The attribute of accreditation or attribute of provisional accreditation for the site (the *proposed site*) stated in the year 7 change notice only takes effect under this division if the proposed site is an existing attribute of accreditation or attribute of provisional accreditation of the school.
- (3) An attribute of accreditation or attribute of provisional accreditation stated in the year 7 change notice, other than the site, does not take effect under this division if it is not an existing attribute of accreditation or attribute of provisional accreditation of the school for year 8.
- (4) The board must as soon as practicable after receiving the year 7 change notice give the governing body a notice (a *change notice*) stating—
 - (a) the changes to the school's attributes of accreditation or attributes of provisional accreditation; and
 - (b) that the changes must be effected before 1 March 2016.

242 Application of ss 56, 57 and 58

- (1) If the board gives a change notice to the governing body of a provisionally accredited school that offers secondary education for year 8, sections 56, 57 and 58 apply as if—

[s 6]

- (a) a change notice under section 241 were a change notice under sections 56, 57 and 58; and
 - (b) the change day under sections 56 and 57 is 1 March 2016.
- (2) If the board gives a change notice to the governing body of an accredited school that offers secondary education for year 8, sections 56, 57 and 58 apply as if—
- (a) an accreditation were a provisional accreditation; and
 - (b) an accredited school were a provisionally accredited school; and
 - (c) an attribute of accreditation were an attribute of provisional accreditation; and
 - (d) a certificate of accreditation were a certificate of provisional accreditation; and
 - (e) a change notice under section 241 were a change notice under sections 56, 57 and 58; and
 - (f) the change day under sections 56 and 57 is 1 March 2016.

243 Deemed eligibility for Government funding

- (1) This section applies if—
- (a) the governing body is eligible for Government funding for the school to offer year 7 or year 8; and
 - (b) the governing body gives the board a year 7 change notice; and
 - (c) the board gives the governing body a change notice.

- (2) Once the change is effected, the governing body of the school is taken to be eligible for Government funding for offering year 7 as secondary education.

244 Applications for Government funding for accredited school

- (1) This section applies if—
 - (a) the governing body is not eligible for Government funding for the school to offer year 7 or year 8; and
 - (b) the governing body gives the board a year 7 change notice; and
 - (c) before 1 January 2015, the governing body applies under section 73 for Government funding to offer year 7.
- (2) When making a recommendation under section 85 or a decision under section 88, the committee or the Minister must consider the application as if—
 - (a) the meaning of primary education did not include education offered in year 7; and
 - (b) the meaning of secondary education included education offered in year 7.

Division 3 Schools that only offer primary education

245 Applications for accreditation to offer education for year 7

- (1) This section applies to a school if—

[s 6]

- (a) the school is an accredited school or provisionally accredited school that offers primary education for year 7; and
 - (b) the school is not accredited or provisionally accredited to offer secondary education.
- (2) If the governing body of the school intends that the school starts offering secondary education for year 7 on or after 1 January 2015 and before 1 March 2016, the governing body may apply for accreditation of the school under this division.

Note—

Section 249 also applies to a school mentioned in this section.

246 Application of particular provisions for accreditations under this division

- (1) Chapter 2, part 2, division 2, subdivisions 2 and 4 and section 168 are applied, with the changes stated in this division, for an application for accreditation of a school to offer secondary education for year 7.
- (2) Sections 17 to 17B are also applied to the application if, when the school applies for accreditation, the school is not eligible for Government funding to offer year 7.

247 Procedural requirements

- (1) An application for the accreditation of a school must—
 - (a) be made to the board; and
 - (b) be in the approved form; and
 - (c) be accompanied by—
 - (i) the fee, if any, prescribed under a regulation; and

- (ii) copies of current positive notices or current positive exemption notices for all the directors of the school's governing body; and
- (d) be made—
 - (i) on or before 31 October 2014; or
 - (ii) if the board is satisfied that unforeseen circumstances prevented the governing body applying on or before 31 October 2014—by a later date allowed by the board.
- (2) The approved form must require the inclusion of the school's student-intake day that is to apply for year 7 if the board provisionally accredits the school.
- (3) The student-intake day included in the approved form must be a day—
 - (a) on or after 1 January 2015; and
 - (b) before 1 March 2016.

248 Decision to provisionally accredit school

When deciding the application, the board must consider the application as if—

- (a) the meaning of primary education did not include education offered in year 7; and
- (b) the meaning of secondary education included education offered in year 7.

249 Schools that are not granted provisional accreditation

- (1) This section applies to a school mentioned in section 245(1) if—

[s 6]

- (a) the governing body of a school does not apply for accreditation of the school under this division; or
 - (b) the board refuses to provisionally accredit the school under this division.
- (2) On and after 1 January 2015, the school is taken to not to have the attribute of accreditation to provide education for year 7 and not to be eligible for Government funding for offering year 7 subject to the school applying for accreditation or Government funding under chapters 2 or 3.

250 Deemed eligibility for Government funding

- (1) This section applies if—
- (a) the board issues a certificate of provisional accreditation under this division to the governing body; and
 - (b) immediately before the board issues the certificate, the governing body is eligible for Government funding for the school to offer year 7 as primary education.
- (2) Once the certificate is issued, the governing body of the school is taken to be eligible for Government funding for offering year 7 as secondary education.

Division 4 New schools

251 Applications for accreditation for new schools

- (1) This section applies if—
- (a) before 1 January 2015, a person applies for accreditation of a school; and

- (b) the school is not a provisionally accredited school or accredited school when the application is made; and
 - (c) the application includes an attribute for the school to start offering secondary education for year 7 on or after 1 January 2015.
- (2) When deciding the application, the board must consider the application as if—
- (a) the meaning of primary education did not include education offered in year 7; and
 - (b) the meaning of secondary education included education offered in year 7.

Division 5 Miscellaneous

252 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision for a matter—
- (a) relating to a school being—
 - (i) provisionally accredited, or accredited, to provide secondary education for year 7; or
 - (ii) eligible for Government funding for the offering of year 7 as secondary education; and
 - (b) for which this Act does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the commencement.
- (3) A transitional regulation must declare it is a transitional regulation.

[s 7]

- (4) This section and any transitional regulation expire 2 years after the commencement.

7 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *change day* and *change notice*—
omit.

- (2) Schedule 3—
insert—

change day, for chapter 2, part 3, see section 52(4)(b).

change notice, for chapter 2, part 3, see section 52(4).

- (3) Schedule 3, definition *commencement*—
insert—

(e) for chapter 8, part 4—see section 239.

- (4) Schedule 3, definition *sector of schooling*, paragraphs (b) and (c)—

omit, insert—

(b) years 4 to 6;

(c) years 7 to 10;

Part 4 Amendment of Education (General Provisions) Act 2006

8 Act amended

This part amends the *Education (General Provisions) Act 2006*.

Note—

See also the amendments in schedule 1.

9 Amendment of s 11 (Meaning of basic allocation, remaining allocation etc.)

(1) Section 11(1), ‘24’—

omit, insert—

26

(2) Section 11(3)—

omit, insert—

(3) The ***remaining allocation*** for a student who had a basic allocation, began schooling in the preparatory year at a State school and continued to be enrolled at any State school is the basic allocation less the number of semesters of State education provided to the student.

(3A) The ***remaining allocation*** for any of the following students is the number of semesters allocated to the student under section 61 less the number of semesters of State education provided to the student—

(a) a student who is not allocated a basic allocation under section 60;

(b) a student whose enrolment in a State school stopped—

(i) if the student is a child—at the request of the student’s parent; or

(ii) if the student is an adult—at the request of the student;

(c) a student whose enrolment in a State school stopped because of non-attendance by the student in accordance with a guideline published by the department;

[s 10]

- (d) a student who received—
 - (i) schooling at a non-State school; or
 - (ii) home education under chapter 9, part 5;
 - (e) a student who received schooling outside Queensland;
 - (f) a student exempted from enrolment under section 186.
- (3) Section 11(3A) to (4)—
renumber as section 11(4) to (5).

10 Amendment of s 51 (Power to charge particular persons or for particular educational services)

Section 51—

insert—

- (7) If a fee for a person mentioned in subsection (1) is not paid—
 - (a) the person is not entitled to be enrolled at a State school; and
 - (b) the chief executive may cancel the enrolment of the person.
- (8) If a fee for a pre-preparatory age child mentioned in subsection (1) is not paid—
 - (a) the pre-preparatory age child is not entitled to be registered in a pre-preparatory learning program at a State school; and
 - (b) the chief executive may cancel the registration of the child.

11 Omission of s 59 (Allocation of semesters for each student)

Section 59—

omit.

12 Replacement of ss 60 and 61

Sections 60 and 61—

omit, insert—

60 Basic allocation

If a student begins schooling in the preparatory year at a State school, the student has the basic allocation determined from the start of the calendar year in which the student begins schooling.

61 Initial remaining allocation

- (1) This section applies to a student mentioned in section 11(4).
- (2) If an application is made under section 155 to enrol the student at a State school, the State school's principal must decide the student's initial remaining allocation.
- (3) If the student has been the subject of an exemption under chapter 9, part 3 and did not undertake an educational program for all or part of the period of the exemption (the *excused period*), the excused period must not be included in calculating the student's initial remaining allocation.

[s 13]

13 Amendment of s 77 (Definitions for ch 6)

Section 77, definition *coopted student member*, ‘7’—
omit, insert—

6

14 Amendment of s 315 (Periodic review of decision to exclude permanently on ground mentioned in s 288B, 289 or 298—person under 24 years)

Section 315(2) and (3)—

omit, insert—

- (2) In each calendar year after the exclusion, the person may make a written submission to the chief executive about whether the exclusion should be revoked.
- (3) The person may only make 1 written submission in each calendar year until the end of the calendar year that the person turns 24.

15 Insertion of new ch 20, pt 6

Chapter 20—

insert—

**Part 6 Transitional provisions
for Education
Legislation
Amendment Act 2013**

513 Definitions for pt 6

In this part—

commencement means the commencement of this section.

pre-amended Act means this Act as in force immediately before the commencement.

514 Decisions about remaining allocation of students

Despite the *Education Legislation Amendment Act 2013*, section 12, a decision under the pre-amended Act, section 61 made before the commencement continues in effect on and after the commencement until another decision is made under this Act, section 61.

515 Chief executive may cancel enrolment for particular students

- (1) This section applies to a fee charged under the pre-amended Act, section 51(1) before the commencement.
- (2) While the fee remains unpaid, the chief executive may cancel the enrolment of the person or registration of the pre-preparatory age child to whom the fee relates.
- (3) The chief executive must, at least 14 days before the enrolment or registration is cancelled, give the person or a parent of the child notice that the chief executive intends to cancel the person's enrolment or the child's registration.

16 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definition *primary education*, '7'—
omit, insert—
6
- (2) Schedule 4, definition *secondary education*, '8'—
omit, insert—
7

Schedule 1 Minor amendments

Education (General Provisions) Act 2006

section 19

- 1 **Chapter 4, part 2, heading, after ‘Basic allocation’—**
insert—

, initial allocation
- 2 **Section 62, heading, after ‘consider’—**
insert—

initial
- 3 **Section 62(2) and (4), after ‘student’s’—**
insert—

initial
- 4 **Section 68(1)(a), ‘or (4)’—**
omit.
- 5 **Section 90(2)(a), ‘one-half of’, first mention—**
omit.
- 6 **Section 90(2)(b), ‘one-half of’, first mention—**
omit.

7 Section 185, heading—

omit, insert—

185 Child can not or should not be required to attend

8 Section 335, heading, ‘pt 6’—

omit, insert—

pt 5

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