



Queensland

# **Education and Other Legislation Amendment Bill 2014**

**Includes amendments agreed during Consideration**





Queensland

# Education and Other Legislation Amendment Bill 2014

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# 2014

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## A Bill

for

**An Act to amend the *Education (Accreditation of Non-State Schools) Act 2001*, the *Education and Care Services Act 2013*, the *Education (Capital Assistance) Act 1993*, the *Education (General Provisions) Act 2006*, the *Education (Queensland College of Teachers) Act 2005*, the *Further Education and Training Act 2014*, the *Industrial Relations Act 1999* and the *Property Occupations Act 2014* for particular purposes, and to make minor and consequential amendments of the Acts as stated in schedule 1 for purposes related to those particular purposes**

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[s 1]

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Education and Other Legislation Amendment Act 2014*.

### **2 Commencement**

(1) The following provisions commence on a day to be fixed by proclamation—

- part 2, division 3
- part 4
- part 5, division 3.

(2) Part 7A is taken to have commenced on 1 December 2013.

## **Part 2 Amendment of Education (Accreditation of Non-State Schools) Act 2001**

### **Division 1 Preliminary**

#### **3 Act amended**

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

*Note—*

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See also the amendment in schedule 1.

## **Division 2                    Amendments commencing on   assent**

### **4            Amendment of s 6 (Meaning of *non-State school*)**

(1) Section 6(2)(aa)—

*omit.*

(2) Section 6(2)—

*insert—*

- (g) a place used only to offer a curriculum that is, or is a variation of, the whole or part of the primary or secondary curriculum of a foreign country.

### **5            Insertion of new s 7AA**

After section 7—

*insert—*

#### **7AA Meaning of *director***

A *director*, of a school's governing body, is—

- (a) if the governing body is a company under the Corporations Act—a person appointed as a director of the governing body; or
- (b) if the governing body is a RECI Act corporation—
- (i) a declared director of the governing body; and
- (ii) if all declared directors of the governing body, for the time being, nominate a person as a director of the governing body—the person; or

[s 6]

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*Note—*

The governing body must give the board a notice under section 167(4) within 14 days after a nomination.

- (c) otherwise—a person who is, or is a member of, the executive or management entity, by whatever name called, of the governing body.

## **6 Amendment of s 39 (Suitability of governing body)**

Section 39(6)—

*insert—*

*convicted*, of an offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

*indictable offence* includes an indictable offence dealt with summarily.

## **7 Amendment of s 113 (Disqualification from membership)**

- (1) Section 113(1), after ‘indictable offence’—

*insert—*

, and the conviction is not a spent conviction

- (2) Section 113—

*insert—*

- (3) In this section—

*convicted*, of an indictable offence, does not include being found guilty of the offence, on a plea of guilty or otherwise, without a conviction being recorded for the offence.



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## 8 Insertion of new ss 114A–114C

After section 114—

*insert—*

### **114A Minister’s power to obtain criminal history**

- (1) The Minister may ask the commissioner of the police service for—
  - (a) a written report about the criminal history of a member or prospective member (a *relevant person*); and
  - (b) a brief description of the circumstances of a conviction mentioned in the report.
- (2) However, the Minister may make the request only if the relevant person has given the Minister written consent for the request.
- (3) The commissioner of the police service must comply with the request.
- (4) However, subsection (3) applies only in relation to information in the commissioner’s possession or to which the commissioner has access.
- (5) The Minister must ensure that a report about a relevant person is destroyed as soon as practicable after it is no longer needed for the purpose for which it was obtained.

### **114B Criminal history is confidential**

- (1) A person must not, directly or indirectly, disclose a report, or information contained in a report, given under section 114A, to anyone else unless the disclosure is permitted under subsection (2).

Maximum penalty—100 penalty units.
- (2) The person may make the disclosure to someone else—

[s 8]

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- (a) to the extent necessary to perform the person's functions under this Act; or
- (b) for the purpose of the other person performing a function under this Act; or
- (c) if the disclosure is authorised under an Act; or
- (d) if the disclosure is otherwise required or permitted by law; or
- (e) if the person to whom the information relates consents to the disclosure.

#### **114C Changes in criminal history must be disclosed**

- (1) If there is a change in the criminal history of a member, the member must immediately give notice of the change to the Minister, unless the member has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) The notice must include the following information—
  - (a) the existence of the conviction;
  - (b) when the offence was committed;
  - (c) details adequate to identify the offence;
  - (d) the sentence imposed on the person.
- (3) If a member does not have a criminal history, there is taken to be a change in the member's criminal history if the member acquires one.
- (4) In this section—

*criminal history*, of a member, means the member's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, to the extent the criminal history relates

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to indictable offences, other than spent convictions.

**9 Amendment of s 167 (Notification of change in circumstances)**

(1) Section 167(2), ‘notify the board’—

*omit, insert—*

give the board notice

(2) Section 167—

*insert—*

(4) If the governing body is a RECI Act corporation, the governing body must, within 14 days after a person is validly nominated as a director of the governing body under section 7AA(b)(ii), give the board a notice, signed by each declared director for the time being of the governing body, stating—

(a) the name of the nominated person; and

(b) the date of the nomination.

Maximum penalty—20 penalty units.

**10 Amendment of s 169 (Disclosure of details of any indictable offence)**

Section 169—

*insert—*

(8) In this section—

***convicted***, of an indictable offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

***indictable offence*** includes an indictable offence dealt with summarily.

[s 11]

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## 11 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *convicted*, *criminal history*, *director* and *indictable offence*—  
*omit.*
- (2) Schedule 3—  
*insert—*

***criminal history***, of a person, means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

***declared director***, of a school's governing body that is a RECI Act corporation, means—

- (a) a person named in the letters patent for the governing body; or
- (b) a successor of a person mentioned in paragraph (a).

***director***, of a school's governing body, see section 7AA.

***letters patent***, for a school's governing body that is a RECI Act corporation, means the letters patent issued under the repealed *Religious Educational and Charitable Institutions Act 1861* establishing the governing body as a body corporate under that Act.

*Note—*

Letters patent under the repealed *Religious Educational and Charitable Institutions Act 1861* are continued in force under the *Associations Incorporation Act 1981*, section 144.

***RECI Act corporation*** means a corporation that is incorporated under the repealed *Religious Educational and Charitable Institutions Act 1861*.

***spent conviction*** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
  - (b) that is not revived as prescribed by section 11 of that Act.
- (3) Schedule 3, definition *person with a disability*, ‘schedule 4’—  
*omit, insert—*  
section 420(5)

## **Division 3                      Amendments commencing on proclamation**

### **12        Insertion of new s 13A**

After section 13—

*insert—*

#### **13A Special assistance**

- (1) This section applies to a school that is provisionally accredited, or accredited, to provide primary or secondary education.
- (2) The school may be provisionally accredited, or accredited, to provide special assistance.
- (3) The provision of *special assistance* is the provision of the type of education mentioned in subsection (1)—
  - (a) to relevant students; and
  - (b) without tuition fees.
- (4) In this section—  
*compulsory participation phase* see the *Education (General Provisions) Act 2006*, section 231.

[s 13]

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***compulsory school age*** see the *Education (General Provisions) Act 2006*, section 9.

***eligible option*** see the *Education (General Provisions) Act 2006*, section 232.

***full-time***, in relation to participation in an eligible option, see the *Education (General Provisions) Act 2006*, schedule 4.

***relevant students*** means students who—

- (a) would not otherwise be—
  - (i) enrolled at and attending school while of compulsory school age; or
  - (ii) participating in an eligible option full-time, or in paid employment for at least 25 hours each week, during the compulsory participation phase; and
- (b) are not provisionally registered, or registered, for home education under the *Education (General Provisions) Act 2006*, chapter 9, part 5.

***school***, for the purposes of the definition *relevant students*, includes a State school.

### **13 Amendment of s 16 (Procedural requirements for application)**

(1) Section 16(3)—

*insert—*

- (j) if the school is to provide special assistance—the sites at which special assistance is to be provided.

*Note—*

Also, a special assistance school may temporarily provide special assistance at other sites—see part 3A.

(2) Section 16—

*insert—*

- (3A) A site must not be an attribute for the purposes of subsection (3)(j) if the school is to provide education other than special assistance at the site.

## 14 Insertion of new ch 2, pt 2, div 3, sdiv 3

Chapter 2, part 2, division 3—

*insert—*

### **Subdivision 3 Assessment of special assistance school using temporary site**

#### **38D Application of sdiv 3**

This subdivision applies to a special assistance school that is providing special assistance at a temporary site.

#### **38E Assessment of school**

The board may assess the special assistance school to decide whether it is complying with the temporary site criteria.

#### **38F Report by assessor**

- (1) To assess the special assistance school under section 38E, the board must obtain a written report from an assessor about whether the school is complying with the temporary site criteria.
- (2) To prepare the report, the assessor may exercise the assessor's powers under chapter 5, part 3.

## 15 Insertion of new ch 2, pt 3A

Chapter 2—

---

[s 15]

---

*insert—*

## **Part 3A                      Special assistance schools—use of temporary sites**

### **60A Purpose of pt 3A**

- (1) The purpose of this part is to enable a special assistance school to provide, on a temporary basis, special assistance at a temporary site.
- (2) However, special assistance may be provided at a temporary site only in accordance with the attributes of provisional accreditation, or the attributes of accreditation, mentioned in section 16(3)(a), (c) to (f), (h) and (i) for the school's accredited special assistance sites.

### **60B Definitions for pt 3A**

In this part—

*accredited special assistance site*, for a special assistance school, means a site mentioned in section 16(3)(j) at which the school provides special assistance.

*public place* means a place, or part of a place—

- (a) the public is entitled to use, whether or not on payment of money; or
- (b) the occupier of which allows, whether or not on payment of money, members of the public to enter, other than—
  - (i) a school; or
  - (ii) a State educational institution within the meaning of the *Education (General Provisions) Act 2006*, schedule 4.



*site* does not include—

- (a) a vehicle; or
- (b) a public place; or
- (c) a place where a person resides.

*temporary site*, in relation to a special assistance school, means a site other than—

- (a) an accredited special assistance site for the school; or
- (b) a site mentioned in section 16(3)(b) for the school.

*temporary site criteria* see section 60C.

*vehicle* means—

- (a) a motor vehicle, train or aircraft; or
- (b) a ship, boat or any other kind of vessel; or
- (c) anything else used or to be used to carry people or goods from place to place.

### **60C Compliance with temporary site criteria**

- (1) A special assistance school that provides special assistance at a temporary site must comply with the criteria prescribed by regulation for temporary sites (the *temporary site criteria*).

*Note*—

Noncompliance with any of the temporary site criteria is a ground for cancellation of provisional accreditation or accreditation—see sections 63 and 70.

- (2) Without limiting subsection (1), a regulation may limit the period for which a special assistance school may provide special assistance at a temporary site.

[s 15]

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**60D Notification of intention to use, or stop using, temporary site**

- (1) Before the governing body of a special assistance school starts providing special assistance at a temporary site for the first time, the governing body must give the board—
  - (a) notice, in the approved form, of the governing body's intention to start providing special assistance at the temporary site; and
  - (b) evidence the school is entitled to occupy the site; and
  - (c) a declaration by the governing body that—
    - (i) the school needs to provide special assistance at the site for stated reasons; and
    - (ii) the school will comply with the temporary site criteria while special assistance is provided at the site.
- (2) If the governing body stops providing special assistance at a temporary site, the governing body must give the board notice, in the approved form, that the body has stopped providing special assistance at the temporary site.
- (3) The board must give the governing body a notice acknowledging receipt of the things mentioned in subsection (1)(a) to (c) or (2).

**60E Use of temporary site is not a change in attribute etc.**

- (1) This section applies if a special assistance school—
  - (a) provides special assistance at a temporary site; and

- (b) complies with this part, including the temporary site criteria, in relation to providing special assistance at the site.
- (2) The provision of the special assistance at the temporary site by the school does not, of itself—
  - (a) require the governing body to apply for provisional accreditation, or accreditation, of the school in relation to the temporary site; or
  - (b) constitute a change in an attribute of provisional accreditation, or an attribute of accreditation, applying to the school; or
  - (c) constitute a change relating to an aspect of the school's operation affecting the governing body's eligibility for Government funding.

## **16 Amendment of s 63 (Grounds for cancellation)**

Section 63(1)—

*insert—*

- (i) if the school is a special assistance school, any of the following applies—
  - (i) the school's governing body has not complied with section 60D(1) or (2);
  - (ii) the declaration given by the school's governing body under 60D(1)(c) included a materially false or misleading representation;
  - (iii) the school is not complying, or has not complied, with the temporary site criteria.

[s 17]

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**17 Amendment of s 70 (Grounds for cancellation)**

Section 70(1)—

*insert—*

- (f) if the school is a special assistance school, any of the following applies—
  - (i) the school’s governing body has not complied with section 60D(1) or (2);
  - (ii) the declaration given by the school’s governing body under 60D(1)(c) included a materially false or misleading representation;
  - (iii) the school is not complying, or has not complied, with the temporary site criteria.

**18 Amendment of s 85 (Recommendation by committee about application)**

(1) Section 85(3)(c)—

*omit, insert—*

- (c) whether the anticipated enrolment of students, other than overseas students, at the school in relation to each site is more than the minimum enrolment for the site;

(2) Section 85(4)(c)—

*omit, insert—*

- (c) whether the enrolment of students, other than overseas students, at the school in relation to each site is more than the minimum enrolment for the site;

(3) Section 85(5)—

*insert—*

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***minimum enrolment***, for a site for a school, means the minimum enrolment prescribed by regulation—

- (a) if the site is not an accredited special assistance site—for a site at which the relevant type of education is offered or proposed to be offered; or
- (b) if the site is an accredited special assistance site—for a site at which special assistance comprising the relevant type of education is provided.

***relevant type of education***, in relation to a site for a school, means the type of education the school offers, or proposes to offer, at the site.

***site***, for a school, means both of the following—

- (a) a site mentioned in section 16(3)(b) for the school;
- (b) for a special assistance school—an accredited special assistance site for the school.

## **19 Amendment of s 141 (Functions of assessor)**

Section 141—

*insert—*

- (i) whether a special assistance school providing special assistance at a temporary site is complying with the temporary site criteria.

## **20 Amendment of s 150 (Purpose of div 4)**

Section 150, after ‘38C,’—

*insert—*

38F,

[s 21]

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**21 Insertion of new ch 8, pt 5**

Chapter 8—

*insert—*

**Part 5 Transitional provisions  
for Education and  
Other Legislation  
Amendment Act 2014**

**253 Existing assessment as special assistance  
school and eligibility for Government funding**

- (1) This section applies to a school if, immediately before the commencement, an assessment that the school was a special assistance school was in effect under a policy made under the *Education (General Provisions) Act 2006*, section 369.
- (2) On the commencement, the school is taken to be provisionally accredited, or accredited, to provide special assistance at the site for which the school was provisionally accredited, or accredited, to operate immediately before the commencement.
- (3) The operation of subsection (2) does not, of itself—
  - (a) constitute a change in an attribute of provisional accreditation, or an attribute of accreditation, applying to the school; or
  - (b) constitute a change relating to an aspect of the school's operation affecting the governing body's eligibility for Government funding.

**254 Existing application for assessment as special  
assistance school**

- (1) This section applies if—

- (a) before the commencement, the governing body of a school had applied to be assessed as a special assistance school under a policy made under the *Education (General Provisions) Act 2006*, section 369; and
  - (b) immediately before the commencement, the application had not been decided.
- (2) The Minister must continue to decide the application under the policy as if the *Education and Other Legislation Amendment Act 2014* had not been enacted.
  - (3) If the Minister grants the application, the school is taken to be provisionally accredited, or accredited, to provide special assistance at the site from which the school operated immediately before the commencement.
  - (4) The operation of subsection (3) does not, of itself—
    - (a) constitute a change in an attribute of provisional accreditation, or an attribute of accreditation, applying to the school; or
    - (b) constitute a change relating to an aspect of the school's operation affecting the governing body's eligibility for Government funding.

## **255 Transitional regulation-making power**

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature for which it is necessary to make provision to allow or facilitate the change from the operation of this Act as in force immediately before the commencement to the operation of this Act as in force on the commencement.

[s 22]

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- (2) A transitional regulation may have retrospective operation to a day not earlier than the day of the commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 1 year after the day of the commencement.

## 22 Amendment of sch 3 (Dictionary)

Schedule 3—

*insert—*

*accredited special assistance site*, for a special assistance school, see section 60B.

*premises*, of a special assistance school, includes a temporary site at which the school provides special assistance under chapter 2, part 3A.

*public place*, for chapter 2, part 3A, see section 60B.

*site*, for chapter 2, part 3A, see section 60B.

*special assistance* see section 13A.

*special assistance school* means a school that is provisionally accredited, or accredited, to provide special assistance.

*temporary site* see section 60B.

*temporary site criteria* see section 60C.

*vehicle*, for chapter 2, part 3A, see section 60B.



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## **Part 3**

# **Amendment of Education and Care Services Act 2013**

### **23 Act amended**

This part amends the *Education and Care Services Act 2013*.

### **24 Replacement of s 127 (Failure to report serious incident or complaint)**

Section 127—

*omit, insert—*

#### **127 Failure to report serious incident, temporary closure incident, complaint or other prescribed matter**

- (1) This section applies if an approved provider becomes aware of any of the following in relation to a QEC approved service operated by the provider—
  - (a) a serious incident at the service;
  - (b) a temporary closure incident at the service;
  - (c) a complaint alleging that—
    - (i) a child’s safety, health or wellbeing has been or is being compromised while the child was or is being provided with education and care at the service; or
    - (ii) a provision of this Act has been, or is being, contravened;
  - (d) any other matter prescribed by regulation.
- (2) The approved provider must give the chief executive notice of the incident, complaint or other matter—

[s 25]

---

- (a) for an incident or complaint—within 24 hours after becoming aware of the incident or complaint; or
- (b) for another matter—within 7 days after becoming aware of the matter.

Maximum penalty—20 penalty units.

- (3) In this section—

*serious incident* means an incident that is—

- (a) prescribed by regulation; or
- (b) a type of incident that is prescribed by regulation.

*temporary closure incident*, at a QEC approved service, means an incident that requires the approved provider operating the service to do either of the following for a period—

- (a) close the service;
- (b) reduce the number of children attending the service.

*Example—*

A flood or fire that requires the provider to close all or part of a QEC service premises at which the service operates while repairs are undertaken.

## **25 Amendment of s 241 (Protecting prescribed persons from liability)**

Section 241(3)—

*omit, insert—*

- (3) This section does not apply to a prescribed person if the person is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

*Note—*

For protection from civil liability in relation to State employees—see the *Public Service Act 2008*, section 26C.

(4) In this section—

*prescribed person* means—

- (a) an authorised person for a QEC approved service within the meaning of section 130; or
- (b) an authorised person for a relevant service within the meaning of section 221; or
- (c) a person acting under the direction of any of the following—
  - (i) the chief executive;
  - (ii) a public service officer or employee;
  - (iii) a person mentioned in paragraph (a) or (b).

## **Part 4**   **Amendment of Education (Capital Assistance) Act 1993**

### **26 Act amended**

This part amends the *Education (Capital Assistance) Act 1993*.

### **27 Amendment of s 14 (Certain projects must not be funded)**

Section 14(1)—

*insert*—

- (c) a capital project related to a temporary site at which special assistance is provided, or proposed to be provided, by an eligible

[s 28]

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non-State school under the *Education (Accreditation of Non-State Schools) Act 2001*, chapter 2, part 3A.

## **Part 5                      Amendment of Education (General Provisions) Act 2006**

### **Division 1                Preliminary**

#### **28        Act amended**

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

### **Division 2                Amendments commencing on assent**

#### **29        Replacement of s 46 (Investigation of complaint)**

Section 46—

*omit, insert—*

##### **46    Investigation of complaint**

- (1) This section applies if—
  - (a) a person makes a complaint about the administration, management or operation of a State educational institution; and
  - (b) in the chief executive's opinion, the complaint is not frivolous or vexatious.
- (2) The chief executive must—
  - (a) investigate the complaint; or

- (b) cause the complaint to be investigated by an appropriately qualified officer of the department.

*Note—*

Under section 432, the chief executive may delegate the chief executive's functions under this section to an appropriately qualified officer of the department.

**30 Amendment of s 53 (When fee for distance education is not payable)**

Section 53(1)—

*insert—*

- (ca) the person is suspended from a State school under chapter 12, part 3, division 2 on a charge-related ground; or

**31 Amendment of s 62 (Principal must consider initial remaining allocation for certain students)**

Section 62(4) and (5)—

*omit, insert—*

- (4) After making the decision, the principal must—
  - (a) immediately advise the student of the decision; and
  - (b) within 7 days after advising the student of the decision, give the student an information notice about the decision.

**32 Amendment of s 66 (Principal must consider and decide application for extra semesters)**

Section 66(3) and (4)—

*omit, insert—*

- (3) After making the decision, the principal must—

[s 33]

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- (a) immediately advise the student of the decision; and
- (b) within 7 days after advising the student of the decision, give the student an information notice about the decision.

**33 Omission of ch 4, pt 4 (Submissions against principal's decision)**

Chapter 4, part 4—

*omit.*

**34 Amendment of s 72 (Chief executive must consider and decide application for further semesters)**

Section 72(3)—

*insert—*

*Note—*

See chapter 15, part 4 for review of the decision by QCAT.

**35 Amendment of s 117 (Protection from liability)**

Section 117—

*insert—*

- (3) This section does not apply to a member of a school council if the member is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

*Note—*

For protection from civil liability in relation to State employees—see the *Public Service Act 2008*, section 26C.

---

**36 Amendment of s 141 (Protection from liability)**

Section 141—

*insert—*

- (3) This section does not apply to a member of an association if the member is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

*Note—*

For protection from civil liability in relation to State employees—see the *Public Service Act 2008*, section 26C.

**37 Amendment of s 154 (Dealing with submissions against removal)**

Section 154(3)—

*insert—*

*Note—*

See chapter 15, part 4 for review of the decision by QCAT.

**38 Amendment of s 165 (Meaning of *person with a disability*)**

- (1) Section 165, heading—

*omit, insert—*

**165 Definition for div 3**

- (2) Section 165(1), ‘A’—

*omit, insert—*

For this division, a

- (3) Section 165(1), ‘in accordance with’—

*omit, insert—*

under

[s 39]

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**39 Amendment of s 179 (Limits on proceedings against a parent)**

(1) Section 179(1)(a), ‘only’—

*omit.*

(2) Section 179(1)—

*insert—*

*Note—*

Under section 432, the chief executive may delegate the chief executive’s functions under this section to an appropriately qualified officer of the department.

**40 Replacement of s 206 (Who is eligible for provisional registration or registration)**

Section 206—

*omit, insert—*

**206 Who is eligible for provisional registration or registration**

A child is eligible for provisional registration, or registration, for home education if the child—

- (a) will be of at least the compulsory school age on 31 December in the year the provisional registration or registration takes effect; or
- (b) is in the compulsory participation phase.

**41 Amendment of s 242 (Limits on proceedings against a parent)**

(1) Section 242(1)(a), ‘only’—

*omit.*

(2) Section 242(1)—

*insert—*

*Note—*



---

Under section 432, the chief executive may delegate the chief executive's functions under this section to an appropriately qualified officer of the department.

**42 Omission of s 251E (Delegation by chief executive)**

Section 251E—

*omit.*

**43 Amendment of s 280 (Definitions for pt 3)**

(1) Section 280, definition *charge*—

*omit.*

(2) Section 280—

*insert—*

*police commissioner* means the commissioner of the police service.

**44 Insertion of new ch 12, pt 3, div 1A**

Chapter 12, part 3—

*insert—*

**Division 1A Information about student charges and convictions**

**280A Application of div 1A**

- (1) This division applies to a person despite the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 5 to the extent it relates to charges.
- (2) This division does not apply to a mature age student of a mature age State school.

[s 44]

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### **280B Chief executive may give information to police commissioner**

- (1) The chief executive may, for this division, give the police commissioner—
  - (a) information about whether a person is a student of a State school; and
  - (b) the name of the person and other identifying information about the person, including the person's date and place of birth and any alias.
- (2) Information given to the police commissioner under subsection (1) must only be used for this division.

### **280C Chief executive may ask police commissioner about student charge or conviction**

- (1) This section applies if—
  - (a) the chief executive reasonably suspects that a student enrolled at a State school has been charged with, or convicted of, an offence; and
  - (b) the school's principal or the chief executive requires confirmation of the charge or conviction for the exercise of a function under this part.
- (2) The chief executive may ask the police commissioner whether the student has been charged with, or convicted of, the offence and, if so, for information about the charge or conviction, including a brief description of the circumstances of the charge or conviction.

**280D Requirement for police commissioner to give information about student charge or conviction**

- (1) The police commissioner must comply with a request made under section 280C.
- (2) However, subsection (1) applies only in relation to information in the police commissioner's possession or to which the commissioner has access.
- (3) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the police commissioner may disclose information to which that part applies to the chief executive when complying with a request made by the chief executive under section 280C.

**280E Use of information about student charge or conviction**

- (1) The chief executive must not use information obtained from the police commissioner under this division other than for this part.
- (2) A State school's principal must not use information obtained by the chief executive from the police commissioner under this division other than for division 2 or 3.

**280F Destruction of information about student charge or conviction**

The chief executive must ensure that information obtained from the police commissioner under this division is destroyed as soon as practicable after it is no longer needed for the purpose for which it may be used under section 280E.

[s 45]

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**45 Amendment of s 302 (Final decision about exclusion)**

Section 302(3)—

*insert—*

*Note—*

See chapter 15, part 4 for review of the decision by QCAT.

**46 Amendment of s 309 (Exclusion)**

Section 309(3)—

*insert—*

*Note—*

See chapter 15, part 4 for review of the decision by QCAT.

**47 Amendment of s 364 (Definitions for pt 10)**

Section 364, definition *director*—

*omit, insert—*

*director*, of a non-State school's governing body, means a director of the governing body within the meaning of the *Education (Accreditation of Non-State Schools) Act 2001*, section 7AA.

**48 Amendment of s 366B (Delegation of director's reporting function under s 366 or 366A)**

Section 366B(7), definition *appropriately qualified*—

*omit.*

**49 Replacement of s 389 (Protection from liability)**

Section 389—

*omit, insert—*

---

### **389 Protection from liability**

- (1) A non-State school's principal is not civilly liable for an act done, or omission made, honestly and without negligence under this chapter.

*Note—*

For protection from civil liability in relation to a State school's principal—see the *Public Service Act 2008*, section 26C.

- (2) If subsection (1) prevents a civil liability attaching to a non-State school's principal, the liability attaches instead to the school's governing body.

#### **50 Amendment of ch 15, pt 4, hdg (External review of decision under section 69, 72, 154, 302(3) or 309(3))**

Chapter 15, part 4, heading, '69,'—

*omit.*

#### **51 Amendment of s 401 (Definition for pt 4)**

- (1) Section 401, definition *aggrieved person*, paragraph (a)—

*omit.*

- (2) Section 401, definition *aggrieved person*, paragraph (b), after 'section 72'—

*insert—*

, other than a student to whom section 72(3)(b)(i) applies

- (3) Section 401, definition *aggrieved person*, paragraphs (b) to (d)—

*renumber* as paragraphs (a) to (c).

#### **52 Amendment of s 407 (Other evidentiary aids)**

Section 407(1)—

[s 53]

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*insert—*

- (h) on a stated day, an institution was—
  - (i) a State educational institution; or
  - (ii) a State instructional institution; or
  - (iii) a State school.

**53 Omission of ch 18 (International educational institutions)**

Chapter 18—

*omit.*

**54 Replacement of ch 19, pt 2, hdg (General)**

Chapter 19, part 2, heading—

*omit, insert—*

**Part 2                      Provision of special  
education in particular  
cases**

**55 Amendment of s 420 (Special education)**

- (1) Section 420, heading, after ‘education’—

*insert—*

**for people enrolled at non-State school or below  
compulsory school age**

- (2) Section 420—

*insert—*

- (5) In this section—

***person with a disability*** means a person who is decided, under a policy mentioned in section 420A(1), to be a person with a disability.

---

**56 Insertion of new s 420A**

After section 420—

*insert—*

**420A Minister must approve policies**

- (1) The Minister must approve a policy about the criteria to be considered in deciding whether a person is a person with a disability because the person is unlikely to attain the levels of development of which the person is capable unless the person receives special education.
- (2) The Minister may approve more than 1 policy under subsection (1) providing for criteria to be considered in deciding whether a person is a person with a disability for the purposes of section 420(1) or (2).
- (3) The chief executive must keep a copy of a policy approved under subsection (1) available for inspection and permit a person—
  - (a) to inspect the policy without fee; and
  - (b) to take extracts from the policy without fee.
- (4) For subsection (3)—
  - (a) a copy of the policy—
    - (i) must be kept at the head office of the department; and
    - (ii) may be kept at any other place the chief executive considers appropriate; and
  - (b) the copy kept under paragraph (a) must be available for inspection during office hours on business days for the office or place.
- (5) Also, the chief executive must supply a copy of a policy approved under subsection (1), or a part of the policy, to a person on request, without fee.

[s 57]

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- (6) In addition, the chief executive must keep a copy of a policy approved under subsection (1) on the department's website.

*Editor's note—*

The department's website is at  
<[www.education.qld.gov.au](http://www.education.qld.gov.au)>.

**57 Insertion of new ch 19, pt 3, hdg**

Before section 421—

*insert—*

**Part 3                      General**

**58 Amendment of s 426 (Confidentiality)**

- (1) Section 426(1)(b)—

*insert—*

- (iv) a child—

(A) who is or has been provisionally registered, or registered, for home education under chapter 9, part 5; or

(B) for whom an application for provisional registration, or registration, has been made under chapter 9, part 5.

- (2) Section 426(4)(d), 'by'—

*omit, insert—*

under subsection (4A) or

- (3) Section 426(4)(e)—

*insert—*



(iii) necessary for research, or the compilation or analysis of statistics, if—

(A) the research, compilation or analysis is in the public interest; and

(B) the recording, use or disclosure does not involve the publication of all or any of the information in a form that identifies a person to whom the information relates; and

(C) it is not practicable to obtain the express or implied agreement of each person to whom the information relates before the information is recorded, used or disclosed; and

(D) for a disclosure—the chief executive is reasonably satisfied the person to whom the information is disclosed will not disclose the information to anyone else.

(4) Section 426—

*insert—*

(4A) The chief executive may disclose the information to a law enforcement agency if the chief executive is reasonably satisfied the disclosure is necessary for the prevention, detection, investigation, prosecution or punishment of a criminal offence or a breach of a law imposing a penalty or sanction.

(5) Section 426(5)—

*insert—*

[s 59]

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*law enforcement agency* see the *Information Privacy Act 2009*, schedule 5, definition *law enforcement agency*, paragraph (a).

- (6) Section 426(5), definition *employee*, paragraph (c), ‘at the school’—

*omit, insert—*

for the school at any place

**59 Amendment of s 431 (Delegation by Minister)**

Section 431(2), definition *appropriately qualified—*

*omit.*

**60 Amendment of s 432 (Delegation by chief executive)**

Section 432(2)—

*omit, insert—*

- (2) Also, the chief executive may delegate the relevant chapter 10 functions to—
- (a) an appropriately qualified employee, other than an officer, employed in the department; or
  - (b) an appropriately qualified employee employed in the department in which the *Further Education and Training Act 2014* is administered.
- (3) A delegation under subsection (1) or (2) of a relevant chapter 10 function may permit the subdelegation of the function to an appropriately qualified employee of—
- (a) the department; or
  - (b) the department in which the *Further Education and Training Act 2014* is administered.

(4) In this section—

*function* includes power.

*relevant chapter 10 functions* means the chief executive's functions under chapter 10, other than section 242.

**61 Insertion of new ch 20, pt 8**

Chapter 20—

*insert*—

**Part 8 Transitional provisions  
for Education and  
Other Legislation  
Amendment Act 2014**

**Division 1 Preliminary**

**527 Definitions for pt 8**

In this part—

*amending Act* means the *Education and Other Legislation Amendment Act 2014*.

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

**Division 2 Initial remaining allocation  
and extra semesters**

**528 Decision about initial remaining allocation or  
extra semesters**

(1) This section applies if—

[s 61]

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- (a) before the commencement, a State school's principal made a decision (an *original decision*) about a student under section 61(2) or 66(1); and
- (b) either—
  - (i) immediately before the commencement, the principal had not given the student a notice under section 62(4)(b) or 66(3)(b), as the case requires; or
  - (ii) the principal gave the student the notice less than 14 days before the commencement.
- (2) The pre-amended Act applies in relation to—
  - (a) the original decision; and
  - (b) the making of submissions against the original decision to the principal's supervisor; and
  - (c) the affirming, varying or setting aside of the original decision by the supervisor (a *supervisor decision*); and
  - (d) any review of a supervisor decision.

*Note—*

See chapter 15, part 4 of the pre-amended Act for review of a supervisor decision by QCAT.

## **Division 3            International educational institutions**

### **529 Cancellation of approval to operate international educational institution**

- (1) This section applies if, immediately before the commencement, a person had operated an

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international educational institution under the Governor in Council's approval under the repealed chapter.

(2) On the commencement, the approval is taken to be cancelled.

(3) In this section—

*repealed chapter* means chapter 18 as in force before the commencement.

## 62 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definitions *approved entity*, *charge* (both mentions), *charge-related ground*, *criminal history*, *international educational institution*, *international institution approval*, *overseas curriculum* and *person with a disability*—  
*omit.*

(2) Schedule 4—

*insert—*

*charge*, for an offence, in relation to a charge made outside Queensland, means any allegation of an offence made in a way that is the same as, or substantially the same as, a charge under the law of Queensland.

*charge-related ground* see section 282(4).

*criminal history*, for chapter 2, part 5, see section 25.

*person with a disability*—

(a) for chapter 8, part 1, division 3—see section 165; or

(b) otherwise—see section 420(5).

*police commissioner*, for chapter 12, part 3, see section 280.

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- (3) Schedule 4, definition *information notice*, ‘of the chief executive’—

*omit.*

- (4) Schedule 4, definitions *mature age State school* and *mature age student*, ‘, for chapter 2, part 5,’—

*omit.*

### **Division 3                      Amendments commencing on proclamation**

#### **63            Amendment of s 11 (Meaning of *basic allocation*, *remaining allocation* etc.)**

Section 11(4)(f)—

*omit, insert—*

- (f) a student who is the subject of an exemption from compliance with section 176(1)(a) granted under chapter 9, part 3.

#### **64            Omission of ch 2, pt 5 (Provisions relating to mature age students)**

Chapter 2, part 5—

*omit.*

#### **65            Amendment of s 48 (Definitions for ch 3)**

- (1) Section 48, definition *nearest applicable school*—

*omit.*

- (2) Section 48—

*insert—*

***corresponding law*** means a law of another State corresponding, or substantially corresponding, to this Act.

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*nearest applicable school*, for a person, means the nearest State school, or equivalent of a State school under a corresponding law, with the required year level for the person.

**66 Amendment of s 52 (Fee for distance education provided by a State school)**

(1) Section 52—

*insert—*

(2A) If the fee payable under subsection (2) for the person is not paid—

- (a) the person is not entitled to be enrolled in, or undertake, the program of distance education mentioned in subsection (1); and
- (b) the chief executive may cancel the person's enrolment.

(2) Section 52(2A) and (3)—

*renumber* as section 52(3) and (4).

**67 Amendment of s 53 (When fee for distance education is not payable)**

(1) Section 53(1)(h)—

*omit, insert—*

(h) the person—

- (i) can not be a mature age student of a mature age State school because the person has been refused enrolment at the school; or
- (ii) can not reasonably be expected to be a mature age student of a mature age State school because the nearest mature age State school to the person's

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principal place of residence is at least  
16km from the residence.

- (2) Section 53(1)(ca) to (i)—  
*renumber* as section 53(1)(d) to (j).

## **68 Amendment of s 155 (Application)**

Section 155—

*insert*—

- (4) An application for enrolment as a mature age student of a mature age State school must also comply with section 155B.

## **69 Insertion of new ss 155A and 155B**

After section 155—

*insert*—

### **155A Eligibility to apply for enrolment—adults**

- (1) An adult, other than a student visa holder, is only eligible to apply for enrolment—
- (a) at a mature age State school; or
  - (b) as a student in a program of distance education.
- (2) Despite subsection (1), an adult may apply for enrolment at a State school if—
- (a) the adult has previously been enrolled at a non-State school or State educational institution (the *previous school or institution*) and on the day of enrolment at the previous school or institution was a child; and
  - (b) the adult's proposed first day of attendance at the State school is not more than 12



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months after the day the adult last attended the previous school or institution.

**155B Additional requirements for application for enrolment as mature age student**

- (1) An application for the enrolment of a person as a mature age student of a mature age State school must—
  - (a) include the applicant's consent for the school's principal to obtain the applicant's criminal history under chapter 8A; and
  - (b) be accompanied by the fee prescribed by regulation.
- (2) The applicant may give the principal notice of the withdrawal of the application at any time before it is decided.
- (3) On receiving the application, the principal may ask the applicant, orally or in writing, for further information the principal reasonably needs to establish the applicant's identity.
- (4) The applicant is taken to have withdrawn the application if—
  - (a) the principal gives the applicant a notice—
    - (i) asking the applicant to provide, within a reasonable stated time, stated information the principal reasonably needs to establish the applicant's identity; and
    - (ii) stating that, if the applicant does not comply with the request, the applicant's application will be taken to have been withdrawn; and
  - (b) the applicant does not comply with the request within the stated time; and

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- (c) the principal can not establish with certainty the applicant's identity; and
- (d) the principal gives the applicant a notice stating that the applicant is taken to have withdrawn the application.

## **70 Amendment of s 156 (Enrolment)**

Section 156—

*insert—*

- (2A) If the prospective student applied for enrolment as a mature age student of a mature age State school, the school's principal must, as part of the principal's consideration of unacceptable risk under subsection (2), consider the following for each conviction or charge of the student for an offence mentioned in the written report about the student's criminal history obtained under chapter 8A—
  - (a) whether the offence is a serious offence;
  - (b) when the offence was committed or is alleged to have been committed;
  - (c) the nature of the offence and its relevance to the prospective student being a mature age student of the school;
  - (d) for a conviction—whether a penalty was imposed, and the nature of the penalty.

## **71 Insertion of new ch 8A**

Chapter 8A—

*insert—*

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## Chapter 8A Criminal histories of mature age students

### Part 1 Preliminary

#### 175A Definitions for ch 8A

In this chapter—

*criminal history*, of a relevant mature age student, means both of the following—

- (a) every conviction of the student for an offence, in Queensland or elsewhere, whether before or after the commencement;
- (b) every charge for an offence made against the student, in Queensland or elsewhere, whether before or after the commencement.

*police commissioner* means the commissioner of the police service.

*relevant mature age student*, of a mature age State school, means—

- (a) a person who has applied for enrolment as a mature age student of the school; or
- (b) a mature age student of the school.

#### 175B Application of ch 8A

This chapter applies to a relevant mature age student despite the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

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## **Part 2                      Information may be    given to police    commissioner**

### **175C Mature age State school's principal may give information to police commissioner**

- (1) A mature age State school's principal may, for this chapter, give the police commissioner—
  - (a) information about whether a person is a relevant mature age student of the mature age State school; and
  - (b) the name of the person and other identifying information about the person, including the person's date and place of birth and any alias.
- (2) Information given to the police commissioner under subsection (1) must only be used for this chapter.

## **Part 3                      Requests for criminal    histories**

*Note—*

Section 175H limits the use that can be made of a criminal history report and information contained in the report.

### **175D Mature age State school's principal must make request about prospective mature age student**

- (1) This section applies if—

- (a) a mature age State school's principal receives an application by a person for enrolment as a mature age student of the school; and
  - (b) the application has not been withdrawn.
- (2) The principal must, before deciding the application, ask the police commissioner for a written report about the applicant's criminal history.

### **175E Mature age State school's principal may make request about mature age student**

A mature age State school's principal may, at any time while a person is a mature age student of the school, ask the police commissioner for a written report about the student's criminal history.

### **175F Request for other information about criminal history**

If a mature age State school's principal asks the police commissioner for a report about a relevant mature age student's criminal history under section 175D or 175E, the principal may also ask the commissioner for the following information—

- (a) a brief description of the circumstances of a conviction or charge for an offence mentioned in the report;
- (b) information about the outcome of a charge for an offence mentioned in the report.

## **Part 4                      Criminal histories**

### **175G Requirement for police commissioner to give information about criminal history**

- (1) The police commissioner must comply with a request made under part 3.
- (2) However, subsection (1) applies only in relation to information in the police commissioner's possession or to which the commissioner has access.
- (3) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the police commissioner may disclose information to which that part applies to a person when complying with a request made by the person under part 3.

### **175H Use of criminal history**

- (1) A mature age State school's principal must not use information obtained under section 175G other than for the following—
  - (a) chapter 8, part 1, division 1;
  - (b) this chapter;
  - (c) chapter 12, part 3, division 2 or 3.
- (2) The chief executive must not use information obtained under section 175G other than for the following—
  - (a) chapter 8, part 1, division 2;
  - (b) chapter 12, part 3.

### **175I Destruction of criminal history**

A mature age State school's principal must ensure that information obtained by the principal

under section 175G is destroyed as soon as practicable after it is no longer needed for the purpose for which it may be used under section 175H.

## **Part 5                    General provisions**

### **175J Notice of change in criminal history**

- (1) This section applies if the police commissioner reasonably suspects a person who is charged with an offence is a relevant mature age student of a mature age State school.
- (2) The police commissioner may give the school's principal notice of the charge.
- (3) The notice must state the following—
  - (a) the person's name and address;
  - (b) the person's date of birth;
  - (c) the offence the person is charged with;
  - (d) particulars of the alleged offence;
  - (e) the date of the charge.
- (4) If the principal receives a notice mentioned in subsection (3) about a person and the person is a mature age student of the school, the principal may write to the person to tell the person about the person's obligations under section 175K.

### **175K Disclosure of change in criminal history**

- (1) If there is a change in the criminal history of a relevant mature age student of a mature age State school, the student must give the school's principal a criminal history change notice before

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the student next attends the school or otherwise participates in the school's educational program.

Maximum penalty—20 penalty units.

- (2) For a relevant mature age student who does not have a criminal history, there is taken to be a change in the student's criminal history if the student acquires a criminal history.

- (3) In this section—

*criminal history change notice*, for a relevant mature age student, means a notice, in the approved form, that includes, for a conviction or charge for an offence in the student's criminal history—

- (a) the existence of the conviction or charge; and  
(b) when the offence was committed or alleged to have been committed; and  
(c) enough details to identify the offence or alleged offence; and  
(d) for a conviction—whether or not a conviction was recorded, and the sentence imposed on the student.

### **175L False or misleading information or documents**

- (1) A relevant mature age student of a mature age State school must not give information to the school's principal under this part that the student knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

- (2) A relevant mature age student of a mature age State school must not give a document to the school's principal under this part that contains



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information the student knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

- (3) Subsection (2) does not apply to a relevant mature age student if the student, when giving the document to the principal—
- (a) tells the principal, to the best of the student's ability, how it is false or misleading; and
  - (b) gives the correct information to the principal if the student has, or can reasonably obtain, the correct information.

**72 Amendment of s 180 (Notice to principal of non-State school)**

Section 180(1), from 'about'—

*omit, insert*—

about—

- (a) the enrolment or attendance at the school of a child who is of compulsory school age; or
- (b) decisions made under section 189, including information in the record kept by the school's governing body under section 197A.

**73 Replacement of s 184 (Definition for pt 3)**

Section 184—

*omit, insert*—

**184 Definitions for pt 3**

In this part—

*exemption* means—

- (a) for an exemption for which the chief executive is the relevant

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decision-maker—an exemption from compliance with section 176(1); or

- (b) for an exemption for which a non-State school's principal is the relevant decision-maker—an exemption from compliance with section 176(1)(b).

*relevant decision-maker* see section 186(1).

**74 Replacement of ch 9, pt 3, div 2, hdg (Bases for granting an exemption)**

Chapter 9, part 3, division 2, heading—

*omit, insert—*

**Division 2 Power to grant exemption**

**75 Amendment of s 185 (Child can not or should not be required to attend)**

- (1) Section 185, heading—

*omit, insert—*

**185 Chief executive may grant exemption**

- (2) Section 185, 'issue'—

*omit, insert—*

grant

- (3) Section 185—

*insert—*

- (2) The chief executive may grant the exemption for a stated or indefinite period.
- (3) Despite subsection (1), the chief executive may not grant an exemption from compliance with section 176(1)(b) for a child under this section if—

- (a) the child is enrolled at a non-State school; and
- (b) the period of the exemption would not, if it were granted, cause the total of the periods of exemptions granted under this section or section 185A for the child to be more than 110 school days in a year.

**76 Insertion of new s 185A**

Chapter 9, part 3, division 2—

*insert—*

**185A Non-State school's principal may grant exemption from requirement to attend school**

A non-State school's principal may grant an exemption from compliance with section 176(1)(b) for a child enrolled at the school if—

- (a) the principal is reasonably satisfied—
  - (i) the child can not attend the school; or
  - (ii) it would be unreasonable in all the circumstances to require the child to attend the school; and
- (b) the period of the exemption would not, if it were granted, cause the total of the periods of exemptions granted under section 185 or this section for the child to be more than 110 school days in a year.

**77 Replacement of s 186 (Application for exemption)**

Section 186—

*omit, insert—*

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### **186 Application for exemption**

- (1) A parent of a child may apply to the following person (the *relevant decision-maker*) for an exemption for the child—
  - (a) for an application for an exemption under section 185—the chief executive;
  - (b) for an application for an exemption under section 185A—the principal of the non-State school at which the child is enrolled.
- (2) The applicant must provide any other relevant information reasonably required by the relevant decision-maker to decide the application.

### **78 Amendment of s 187 (Lapsing of application)**

- (1) Section 187, ‘chief executive’—  
*omit, insert—*  
relevant decision-maker
- (2) Section 187(1), ‘186(3)’—  
*omit, insert—*  
186(2)

### **79 Amendment of s 188 (Temporary exemption until application is decided)**

- (1) Section 188, ‘Section’—  
*omit, insert—*  
For an application for an exemption under section 185,  
section
- (2) Section 188—  
*insert—*

- (2) For an application for an exemption under section 185A, section 176(1)(b) does not apply to a parent of the child until—
  - (a) 14 days after the non-State school's principal gives notice to the applicant under section 189; or
  - (b) the application lapses.

## **80 Amendment of s 189 (Decision)**

- (1) Section 189(1)—

*omit, insert—*

- (1) The relevant decision-maker must consider the application and either grant, or refuse to grant, the exemption.

- (2) Section 189(2) and (3), 'chief executive'—

*omit, insert—*

relevant decision-maker

- (3) Section 189(2) and (3), 'application'—

*omit, insert—*

exemption

- (4) Section 189(2), 'issue'—

*omit, insert—*

grant

## **81 Amendment of s 190 (Contents of exemption)**

- (1) Section 190(1)—

*omit, insert—*

- (1) This section applies if the relevant decision-maker decides to grant an exemption for a child.

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(2) Section 190(2)(a), ‘issued’—

*omit, insert—*

granted

(3) Section 190(2)—

*insert—*

(e) whether the relevant decision-maker has granted any other exemptions for the child in the year in which the exemption is granted, and, if so, the period of each exemption.

## **82 Amendment of s 191 (Imposition of conditions)**

(1) Section 191, ‘chief executive’—

*omit, insert—*

relevant decision-maker

(2) Section 191(1), ‘application’—

*omit, insert—*

exemption

(3) Section 191(2), ‘issue’—

*omit, insert—*

grant

## **83 Amendment of s 192 (Lesser period of exemption than that applied for)**

(1) Section 192, ‘chief executive’—

*omit, insert—*

relevant decision-maker

(2) Section 192, ‘issue’—

*omit, insert—*

grant

**84 Amendment of s 193 (Grounds for cancellation)**

Section 193(a), ‘issue’—

*omit, insert*—

grant

**85 Amendment of s 194 (Show cause notice)**

Section 194, ‘chief executive’—

*omit, insert*—

relevant decision-maker

**86 Amendment of s 195 (Representations about show cause notice)**

Section 195, ‘chief executive’—

*omit, insert*—

relevant decision-maker

**87 Amendment of s 196 (Ending show cause process without further action)**

Section 196, ‘chief executive’—

*omit, insert*—

relevant decision-maker

**88 Amendment of s 197 (Cancellation)**

Section 197, ‘chief executive’—

*omit, insert*—

relevant decision-maker

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**89 Insertion of new ch 9, pt 3, div 5**

Chapter 9, part 3—

*insert—*

**Division 5            Miscellaneous**

**197A Record of decisions about  
exemptions—non-State schools**

- (1) The governing body of a non-State school must keep a record of each decision made by the school's principal under section 189 as required under subsection (2).

Maximum penalty—20 penalty units.

- (2) The record must—
- (a) be kept for at least 5 years from the day the decision was made; and
  - (b) for a decision to grant an application for an exemption—include the matters mentioned in section 190(2).

**90 Amendment of s 201 (Child's illness)**

Section 201(1), note—

*omit, insert—*

*Note—*

If a child is prevented by illness from attending school for a longer period, an exemption from compliance with section 176(1) may be granted under part 3.

**91 Replacement of ch 10, pt 5, div 1, hdg (Bases for granting an exemption)**

Chapter 10, part 5, division 1, heading—

*omit, insert—*



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## Division 1      Preliminary

### 92      **Replacement of s 243 (Explanation)**

Section 243—

*omit, insert—*

#### **243 Definition for pt 5**

In this part—

*relevant decision-maker* see section 245(1).

### 93      **Insertion of new ch 10, pt 5, div 1A, hdg**

Chapter 10, part 5, before section 244—

*insert—*

## **Division 1A      Power to grant exemption**

### 94      **Amendment of s 244 (Participation is impossible or should not be required)**

(1) Section 244, heading—

*omit, insert—*

#### **244 Chief executive may grant exemption**

(2) Section 244(1), ‘is satisfied’—

*omit, insert—*

is reasonably satisfied

(3) Section 244—

*insert—*

(3) Despite subsection (1) or (2), the chief executive may not grant an exemption for a young person under this section if—

(a) the young person is participating in an eligible option for which a non-State school is the provider; and

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- (b) the period of the exemption would not, if it were granted, cause the total of the periods of exemptions granted under this section or section 244A for the young person to be more than 110 school days in a year.

## 95 Insertion of new s 244A

Chapter 10, part 5, division 1A—

*insert—*

### **244A Non-State school's principal may grant exemption**

- (1) A non-State school's principal may grant an exemption fully excusing a young person from the requirement that the young person participate in an eligible option if—
  - (a) the non-State school is the provider for the eligible option; and
  - (b) the principal is reasonably satisfied—
    - (i) the young person can not participate in the eligible option; or
    - (ii) it would be unreasonable in all the circumstances to require the young person to participate in the eligible option; and
  - (c) the period of the exemption would not, if it were granted, cause the total of the periods of exemptions granted under section 244 or this section for the young person to be more than 110 school days in a year.
- (2) A non-State school's principal may grant an exemption partially excusing a young person from the requirement that the young person participate in an eligible option if—

- 
- (a) the non-State school is the provider for the eligible option; and
  - (b) the principal is reasonably satisfied—
    - (i) the young person can not participate in the eligible option at a full-time level; or
    - (ii) it would be unreasonable in all the circumstances to require the young person to participate in the eligible option at a full-time level; and
  - (c) the period of the exemption would not, if it were granted, cause the total of the periods of exemptions granted under section 244 or this section for the young person to be more than 110 school days in a year.

**96 Renumbering of ch 10, pt 5, divs 1A and 2**

Chapter 10, part 5, divisions 1A and 2—

*renumber* as chapter 10, part 5, divisions 2 and 3.

**97 Replacement of s 245 (Application for exemption)**

Section 245—

*omit, insert*—

**245 Application for exemption**

- (1) A young person, or a parent of a young person, may apply to the following person (the *relevant decision-maker*) for an exemption from the requirement that the young person participate in an eligible option—
  - (a) for an application for an exemption under section 244—the chief executive;
  - (b) for an application for an exemption under section 244A—the principal of the

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non-State school that is the provider for the eligible option.

- (2) The application must—
- (a) state the period for which the exemption is sought; and
  - (b) for an application by a young person—include the signed consent of a parent of the young person.
- (3) However, subsection (2)(b) does not apply if the relevant decision-maker is satisfied it would be inappropriate in all the circumstances to require the signed consent of a parent.

*Example—*

an application by a young person living independently of the young person's parents

- (4) The applicant must provide any other relevant information reasonably required by the relevant decision-maker to decide the application.

*Example—*

If an exemption is sought because the young person is ill, the information required under this subsection may include stated medical evidence.

## **98 Amendment of s 246 (Lapsing of application)**

Section 246, 'chief executive'—

*omit, insert—*

relevant decision-maker

## **99 Amendment of s 247 (Temporary exemption until application is decided)**

Section 247, 'chief executive'—

*omit, insert—*

relevant decision-maker

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**100 Amendment of s 248 (Decision)**

(1) Section 248(1)—

*omit, insert—*

(1) The relevant decision-maker must consider the application and either grant, or refuse to grant, the exemption.

(2) Section 248(2) and (3), ‘chief executive’—

*omit, insert—*

relevant decision-maker

(3) Section 248(2) and (3), ‘application’—

*omit, insert—*

exemption

(4) Section 248(2), ‘issue’—

*omit, insert—*

grant

**101 Amendment of s 249 (Contents of exemption)**

(1) Section 249(1)—

*omit, insert—*

(1) This section applies if the relevant decision-maker decides to grant an exemption from the requirement that a young person participate in an eligible option.

(2) Section 249(2)(e), ‘issued’—

*omit, insert—*

granted

(3) Section 249(2)—

*insert—*

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- (f) whether the relevant decision-maker has granted any other exemptions for the young person in the year in which the exemption is granted, and, if so, the period of each exemption.

**102 Amendment of s 250 (Imposition of conditions)**

- (1) Section 250, ‘chief executive’—

*omit, insert—*

relevant decision-maker

- (2) Section 250(1), ‘application’—

*omit, insert—*

exemption

- (3) Section 250(2), ‘issue’—

*omit, insert—*

grant

**103 Amendment of s 251 (Lesser period of exemption than that applied for)**

- (1) Section 251, ‘chief executive’—

*omit, insert—*

relevant decision-maker

- (2) Section 251, ‘issue’—

*omit, insert—*

grant

**104 Insertion of new ch 10, pt 5, div 4**

Chapter 10, part 5—

*insert—*

---

## **Division 4            Miscellaneous**

### **251AA Record of decisions about exemptions—non-State schools**

- (1) The governing body of a non-State school must keep a record of each decision made by the school's principal under section 248 as required under subsection (2).

Maximum penalty—20 penalty units.

- (2) The record must—
  - (a) be kept for at least 5 years from the day the decision was made; and
  - (b) for a decision to grant an application for an exemption—include the matters mentioned in section 249(2).

### **251AB Notice to non-State school's principal**

The chief executive may, by giving notice to a non-State school's principal, ask the principal for information about decisions made under section 248, including information in the record kept by the school's governing body under section 251AA.

### **251AC Protection from liability**

- (1) This section applies to a non-State school's principal in complying with a request of the chief executive under section 251AB.
- (2) The principal is not civilly liable for an act done, or omission made, honestly and without negligence in complying with the request.

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- (3) If subsection (2) prevents a civil liability attaching to the principal, the liability attaches instead to the non-State school's governing body.

**105 Amendment of s 337 (Direction about conduct or movement)**

- (1) Section 337(3)(e), 'principal's supervisor'—

*omit, insert—*

chief executive

- (2) Section 337(3)(f) and (g)—

*omit, insert—*

- (f) how the directed person may apply to have the direction reviewed.

**106 Amendment of s 338 (Review of direction under s 337)**

- (1) Section 338(2), 'principal's supervisor'—

*omit, insert—*

chief executive

- (2) Section 338(4) to (8)—

*omit, insert—*

- (4) After considering the grounds, the chief executive must make a decision (the *review decision*) to—

- (a) confirm the direction; or  
(b) cancel the direction.

- (5) The chief executive must—

- (a) make the review decision within 5 business days after the application is made; and  
(b) as soon as practicable after the decision is made—



- (i) tell the person and the institution's principal about the decision; and
  - (ii) give the person written notice of the decision.
- (6) If the chief executive does not tell the person about the review decision under subsection (5)(b)(i) within 5 business days after the application is made, the review decision is taken to be that the direction is cancelled.

**107 Amendment of s 339 (Direction to leave and not re-enter)**

- (1) Section 339(1), 'a written'—

*omit, insert—*

an oral

- (2) Section 339(3), 'state'—

*omit, insert—*

include

- (3) Section 339(3)(c) and (d)—

*omit, insert—*

- (c) the time during which the prohibited person may not re-enter the premises.

- (4) Section 339(4) and (5)—

*omit, insert—*

- (4) The prohibited person must immediately comply with the direction, unless the prohibited person has a reasonable excuse.

Maximum penalty for subsection (4)—20 penalty units.

**108 Amendment of s 340 (Prohibition from entering premises)**

- (1) Section 340(1), from 'The' to 'chief executive is'—

[s 109]

---

*omit, insert—*

A State instructional institution's principal may give a person (the ***prohibited person***) a written direction requiring the prohibited person not to enter the premises of the institution for up to 60 days after the day on which the direction is given if the principal is

(2) Section 340(3A) to (5)—

*omit, insert—*

- (4) The direction must be accompanied by an information notice about the principal's decision to give the direction.
- (5) The direction has no effect until the principal gives it to the prohibited person.
- (6) The prohibited person must comply with the direction, unless the prohibited person has a reasonable excuse.

Maximum penalty for subsection (6)—30 penalty units.

## **109 Insertion of new s 340A**

Chapter 12, part 5, division 5—

*insert—*

### **340A Chief executive may prohibit person from entering premises**

- (1) This section applies if a State instructional institution's principal, or the chief executive, reasonably believes it would be appropriate for the chief executive to exercise the power to give a person a written direction mentioned in section 340.

*Example—*

It would be appropriate for the chief executive to exercise the power if the principal was prevented from

---

doing so by the principles of natural justice relating to bias.

- (2) The chief executive may exercise the power.
- (3) Section 340 applies as if a reference in that section to the principal were a reference to the chief executive.

## 110 Replacement of s 341 (Prohibition from entering premises)

Section 341—

*omit, insert—*

### 341 Prohibition from entering premises

- (1) The chief executive may give a person (the ***prohibited person***) a written direction requiring the prohibited person not to enter the premises of a State instructional institution for more than 60 days, but not more than 1 year, after the day on which the direction is given if the chief executive is reasonably satisfied that, unless the direction is given, the prohibited person is likely to—
  - (a) cause physical harm to, or apprehension or fear of physical harm in, another person when the other person is at the premises; or
  - (b) damage the premises or property at the premises; or
  - (c) disrupt the good order or management of the institution.
- (2) A direction under subsection (1) may not be given to an exempt person for the institution.
- (3) The direction must state—
  - (a) the terms of the direction; and
  - (b) the ground for the direction; and

[s 111]

---

- (c) an outline of the facts and circumstances forming the basis for the ground; and
  - (d) the time the direction is to remain in force.
- (4) The direction must state the matters mentioned in section 157(2)(a) to (e) of the QCAT Act as if a reference in the section to the decision were a reference to the direction.
  - (5) The direction has no effect until the chief executive gives it to the prohibited person.
  - (6) The prohibited person must comply with the direction, unless the prohibited person has a reasonable excuse.

Maximum penalty for subsection (6)—40 penalty units.

### **111 Amendment of s 343 (Definitions for pt 7)**

- (1) Section 343, heading, ‘pt 7’—

*omit, insert—*

#### **pt 6**

- (2) Section 343—

*insert—*

*review body*, of a non-State school, see section 343A.

### **112 Insertion of new s 343A**

Chapter 12, part 6, division 1—

*insert—*

#### **343A Meaning of *review body***

- (1) In this part, a *review body* of a non-State school is—

- (a) if the school's governing body has nominated a person to conduct a review—the nominee; or
  - (b) otherwise—the school's governing body.
- (2) For subsection (1)(a), a nominee must not be the school's principal.

**113 Omission of s 345 (Review body)**

Section 345—

*omit.*

**114 Amendment of s 347 (Review of direction under s 346)**

Section 347(5) and (6)—

*omit, insert—*

- (5) The review body must—
- (a) make the review decision within 5 business days after the application is made; and
  - (b) as soon as practicable after the decision is made—
    - (i) tell the person and the school's principal about the decision; and
    - (ii) give the person written notice of the decision.
- (6) If the review body does not tell the person about the review decision under subsection (5)(b)(i) within 5 business days after the application is made, the review decision is taken to be that the direction is cancelled.

**115 Amendment of s 348 (Direction to leave and not re-enter)**

- (1) Section 348(1), 'a written'—

[s 116]

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*omit, insert—*

an oral

- (2) Section 348(3), ‘state’—

*omit, insert—*

include

- (3) Section 348(3)(c) and (d)—

*omit, insert—*

- (c) the time during which the prohibited person may not re-enter the premises.

- (4) Section 348(4) and (5)—

*omit, insert—*

- (4) The prohibited person must immediately comply with the direction, unless the prohibited person has a reasonable excuse.

Maximum penalty for subsection (4)—20 penalty units.

## **116 Amendment of s 349 (Prohibition from entering premises)**

- (1) Section 349(1), from ‘A’ to ‘this subsection,’—

*omit, insert—*

A non-State school’s principal

- (2) Section 349(1), ‘governing body or nominee’—

*omit, insert—*

principal

- (3) Section 349(3A) to (6)—

*omit, insert—*

- (4) The direction has no effect until the principal gives it to the prohibited person.

- (5) The prohibited person must comply with the direction, unless the prohibited person has a reasonable excuse.

Maximum penalty for subsection (5)—30 penalty units.

## 117 Insertion of new ss 349A and 349B

Chapter 12, part 6, division 5—

*insert—*

### **349A Non-State school's governing body or nominee may prohibit person from entering premises**

- (1) This section applies if a non-State school's principal, or a non-State school's governing body, reasonably believes it would be appropriate for the governing body, or its nominee for this subsection, to exercise the power to give a person a written direction mentioned in section 349.

*Example—*

It would be appropriate for the governing body or nominee to exercise the power if the principal was prevented from doing so by the principles of natural justice relating to bias.

- (2) The governing body or nominee may exercise the power.
- (3) Section 349 applies as if a reference in that section to the principal were a reference to the governing body or nominee.
- (4) For subsection (1), a nominee of a non-State school's governing body must not be the school's principal.

### **349B Review of written direction**

- (1) This section applies if a person is given a written direction by—
  - (a) a non-State school’s principal under section 349; or
  - (b) a non-State school’s governing body or its nominee under section 349A.
- (2) The person may apply in writing to the school’s review body for a review of the direction.
- (3) The application must—
  - (a) be made within 30 school days after the person is given the direction; and
  - (b) state in detail the grounds on which the person wants the direction to be reviewed; and
  - (c) state the person’s residential address.
- (4) The review body may extend the time for making the application.
- (5) Within 40 school days after the making of the application, the review body must consider the grounds and make a decision to—
  - (a) confirm the direction; or
  - (b) vary the direction; or
  - (c) substitute another direction for the original direction.
- (6) The review body must make the decision on the material that led to the original direction and any other material the review body considers relevant.
- (7) The review body must give the person and the school’s principal written notice of the decision.



- 
- (8) The written notice must state the matters mentioned in section 157(2)(a) to (e) of the QCAT Act for the decision.
  - (9) If the written direction was given by the school's governing body or its nominee, the review body must not be the governing body or nominee.

**118 Replacement of s 350 (Prohibition from entering premises)**

Section 350—

*omit, insert—*

**350 Prohibition from entering premises**

- (1) A non-State school's governing body, or its nominee for this subsection, may give a person (the *prohibited person*) a written direction requiring the prohibited person not to enter the premises of the school for more than 60 days, but not more than 1 year, after the day on which the direction is given if the governing body or nominee is reasonably satisfied that, unless the direction is given, the prohibited person is likely to—
  - (a) cause physical harm to, or apprehension or fear of physical harm in, another person when the other person is at the premises; or
  - (b) damage the premises or property at the premises; or
  - (c) disrupt the good order or management of the school.
- (2) A direction under subsection (1) may not be given to an exempt person for the school.
- (3) The direction must state—
  - (a) the terms of the direction; and
  - (b) the ground for the direction; and

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---

- (c) an outline of the facts and circumstances forming the basis for the ground; and
  - (d) the time the direction is to remain in force.
- (4) The direction must state the matters mentioned in section 157(2)(a) to (e) of the QCAT Act as if a reference in the section to the decision were a reference to the direction.
  - (5) The direction has no effect until the governing body or nominee gives it to the prohibited person.
  - (6) The prohibited person must comply with the direction, unless the prohibited person has a reasonable excuse.

Maximum penalty for subsection (6)—40 penalty units.

**119 Amendment of s 356 (Notification of application or direction)**

- (1) Section 356(1), ‘341, 350,’—  
*omit.*
- (2) Section 356(3), ‘340 or 349’—  
*omit, insert—*  
340, 341, 349 or 350

**120 Amendment of s 357 (Noncompliance with QCAT order)**

Section 357(1)—  
*omit.*

**121 Amendment of s 358 (Annual report of department to include report on various matters)**

- (1) Section 358(1)(a), ‘and 340’—  
*omit, insert—*

, 340 and 341

- (2) Section 358(1)(b), ‘341,’—  
*omit.*

**122 Amendment of s 359 (Non-State school’s governing body to give particular information to Minister)**

- (1) Section 359(a), ‘348 and 349’—  
*omit, insert—*

348, 349 and 350

- (2) Section 359(b)—  
*omit.*

- (3) Section 359(c) to (e), ‘section 347’—  
*omit, insert—*

each of sections 347 and 349B

- (4) Section 359(c) to (e)—  
*renumber* as section 359(b) to (d).

**123 Amendment of ch 15, pt 3, hdg (External reviews of directions under section 340 or 349)**

Chapter 15, part 3, heading, from ‘directions’—  
*omit, insert—*

**particular directions and decision**

**124 Replacement of s 397 (Who may apply for external review of direction given)**

Section 397—  
*omit, insert—*

[s 125]

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### **397 Who may apply for external review**

- (1) A person who is given a direction under section 341 or 350 may apply to QCAT for a review of the direction.
- (2) A person who is given written notice of a decision under section 349B may apply to QCAT for a review of the decision.

### **125 Amendment of s 407 (Other evidentiary aids)**

- (1) Section 407(1)(a)(ii) and (iii)—

*omit, insert—*

(ii) an exemption granted under section 185; or

(iii) an exemption granted under section 244; or

- (2) Section 407(1)(d) and (e)—

*omit, insert—*

(d) on a stated day, or during a stated period, an exemption granted under section 185 for a stated child was, or was not, in force;

(e) on a stated day, or during a stated period, an exemption granted under section 244 for a stated young person was, or was not, in force.

- (3) Section 407—

*insert—*

- (3) A certificate purporting to be signed by a non-State school's principal and stating any of the following matters is evidence of the matter—

- (a) a stated document is an exemption granted by the principal under section 185A or 244A;

- (b) a stated document is a copy of a document mentioned in paragraph (a);
- (c) on a stated day, or during a stated period, an exemption granted by the principal under section 185A for a stated child was, or was not, in force;
- (d) on a stated day, or during a stated period, an exemption granted by the principal under section 244A for a stated young person was, or was not, in force.

## 126 Insertion of new s 429B

After section 429A—

*insert—*

### **429B Anti-Discrimination Act 1991**

- (1) The *Anti-Discrimination Act 1991* does not apply in relation to an act that is necessary to comply with, or is specifically authorised by, a mature age student provision.
- (2) In this section—  
***mature age student provision*** means—
  - (a) a provision of this Act about the enrolment of a person as a mature age student of a mature age State school; or
  - (b) a provision of chapter 8A that applies in relation to—
    - (i) a mature age student of a mature age State school; or
    - (ii) a prospective mature age student.

***prospective mature age student*** means a person who has applied for enrolment as a mature age student of a mature age State school.

[s 127]

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**127 Insertion of new ch 20, pt 8, divs 4–6**

Chapter 20, part 8—

*insert—*

**Division 4 Mature age students**

**530 Application for mature age student notice**

- (1) This section applies if—
  - (a) an application for a mature age student notice was made under section 28 of the pre-amended Act; and
  - (b) immediately before the commencement, the application had not been decided under section 29 of that Act.
- (2) The pre-amended Act continues to apply in relation to the application as if the amending Act had not been enacted.

**531 Positive notices**

- (1) This section applies if—
  - (a) the chief executive issued a positive notice in relation to a mature age State school to a person under section 29(1)(a) or 42(7) of the pre-amended Act; and
  - (b) the notice is in force immediately before the commencement.
- (2) Chapter 2, part 5 of the pre-amended Act continues to apply in relation to the positive notice as if the amending Act had not been enacted.
- (3) To remove any doubt, it is declared that subsection (2) applies whether or not the mature age State school is a mature age State school on or after the commencement.

### **532 Negative notices**

- (1) This section applies if—
  - (a) the chief executive issued a negative notice to a person under section 29(1)(b) or 38(2) or (3) of the pre-amended Act; and
  - (b) the notice is in force immediately before the commencement.
- (2) The pre-amended Act continues to apply in relation to the negative notice as if the amending Act had not been enacted.

### **533 Application for enrolment at mature age State school**

- (1) This section applies if—
  - (a) an application for enrolment at a mature age State school was made under section 155 of the pre-amended Act by a person with a current positive notice; and
  - (b) immediately before the commencement, the application had not been decided.
- (2) The pre-amended Act continues to apply in relation to the application as if the amending Act had not been enacted.
- (3) To remove any doubt, it is declared that subsection (2) applies whether or not the mature age State school is a mature age State school on or after the commencement.

### **534 Time limit on application for enrolment by person with negative notice**

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

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- (i) a person made an application under section 28 of the pre-amended Act for a mature age student notice in relation to a mature age State school; and
    - (ii) the chief executive decided the application by issuing the person with a negative notice; and
  - (b) if the chief executive has not made a review decision to cancel the negative notice and substitute a positive notice; and
  - (c) if the period of 1 year starting on the day after the day the person was notified about the decision mentioned in paragraph (a)(ii) has not ended before the commencement.
- (2) The person is not eligible to apply for enrolment under section 155 as a mature age student of the mature age State school, or any other mature age State school, in the 1-year period.

### **535 Criminal history of mature age students**

- (1) This section applies if, immediately before the commencement—
  - (a) a person was a mature age student of a mature age State school; and
  - (b) the person was an adult on the day of enrolment at the school.
- (2) Chapter 2, part 5, division 4 of the pre-amended Act continues to apply in relation to the person while the person is enrolled at the school as if the amending Act had not been enacted.
- (3) To remove any doubt, it is declared that subsection (2) applies whether or not the mature age State school is a mature age State school on or after the commencement.



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## Division 5      Directions and prohibition orders

### 536 Reviews of particular existing directions

- (1) This section applies if—
  - (a) a person was given a direction under section 337, 340 or 349 of the pre-amended Act; and
  - (b) immediately before the commencement, the person—
    - (i) had applied for a review of the direction and the application had not been decided; or
    - (ii) was entitled to apply for a review of the direction but had not applied.
- (2) The pre-amended Act continues to apply in relation to—
  - (a) the direction; and
  - (b) any application for a review of the direction; and

*Note—*

See also sections 338 and 397 of the pre-amended Act.

- (c) the confirming, cancelling, amending, setting aside, substituting or returning of the direction (a **review decision**); and
- (d) the giving of, or the failure to give, notice of the review decision.

*Note—*

See also section 356(3) and (4) of the pre-amended Act.

[s 127]

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**537 Existing applications for orders prohibiting persons from entering particular premises**

- (1) This section applies if—
  - (a) an application had been made under section 341(1) or 350(1) of the pre-amended Act; and
  - (b) immediately before the commencement, the application had not been decided.
- (2) The pre-amended Act continues to apply in relation to—
  - (a) the application; and
  - (b) the giving of a notice in relation to the application; and

*Note—*

See also section 356(2) of the pre-amended Act.

- (c) any order made by QCAT in relation to the application.

*Note—*

See also section 357(1) of the pre-amended Act.

**538 Annual report of department to include report on particular orders made during 2014–15 financial year**

- (1) In the department's annual report for the 2014–15 financial year, the chief executive must include details of the number of orders made during that financial year under section 341 of the pre-amended Act.
- (2) This section does not limit section 358.

**539 Non-State school's governing body to give particular information to Minister for 2014–15 financial year**

- (1) A non-State school's governing body must, within 2 months after the end of the 2014–15 financial year, advise the Minister of the number of orders, relating to the school, made during that financial year under section 350 of the pre-amended Act, including the number made in relation to children.
- (2) This section does not limit section 359.

**Division 6      Other matters**

**540 Chief executive may cancel enrolment for particular students**

- (1) This section applies to a fee charged under section 52(2) of the pre-amended Act before the commencement.
- (2) While the fee remains unpaid, the chief executive may cancel the enrolment of the person to whom the fee relates.
- (3) The chief executive must, at least 14 days before the enrolment is cancelled, give the person notice that the chief executive intends to cancel the person's enrolment.

**541 Distance education fees for 2014 and 2015 school years not payable by particular persons**

- (1) This section applies for a person who—
  - (a) immediately before the commencement—
    - (i) was a person mentioned in section 52(1)(a); and

[s 128]

---

- (ii) lived in a State other than Queensland;  
and
- (b) during the 2014 school year, enrolls, or has enrolled, in a program of distance education at a State school for the 2015 school year.
- (2) Section 52(2) and (3) does not apply to the person for the 2014 and 2015 school years.

## 128 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *criminal history*, *mature age State school*, *mature age student*, *mature age student notice*, *negative notice*, *original decision*, *original direction*, *police commissioner*, *positive notice* and *review body*—

*omit.*

- (2) Schedule 4—

*insert—*

*corresponding law*, for chapter 3, see section 48.

*criminal history*, of a relevant mature age student, for chapter 8A, see section 175A.

*mature age State school* means a State school prescribed by regulation as a mature age State school.

*mature age student*, of a mature age State school, means an adult enrolled at the school.

*original decision*, for chapter 15, part 1, see section 390.

*police commissioner*—

- (a) for chapter 8A—see section 175A; or
- (b) for chapter 12, part 3—see section 280.

*relevant decision-maker*—

- (a) for chapter 9, part 3—see section 186(1); or



[s 131]

---

**131 Amendment of s 29 (Requirements for renewal—full registration)**

Section 29—

*insert—*

- (5A) However, section 16 applies in relation to previously-provided police information for the person only if—
- (a) the college proposes to make a decision under section 32(1)—
    - (i) to renew the person’s registration with conditions; or
    - (ii) to refuse to renew the person’s registration; and
  - (b) the previously-provided police information is relevant to the decision.

**132 Amendment of s 31 (Requirements for renewal—permission to teach)**

Section 31—

*insert—*

- (4) However, section 16 applies in relation to previously-provided police information for the person only if—
- (a) the college proposes to make a decision under section 32(1)—
    - (i) to renew the person’s permission to teach with conditions; or
    - (ii) to refuse to renew the person’s permission to teach; and
  - (b) the previously-provided police information is relevant to the decision.

---

**133 Amendment of s 32 (How college may decide application for renewal)**

Section 32(1)—

*insert—*

*Note—*

For requirements relating to particular proposed decisions under this subsection to which previously-provided police information for an applicant is relevant—see sections 29(5A) and 31(4).

**134 Amendment of s 246 (Disqualification from membership)**

Section 246—

*insert—*

(7) In this section—

*convicted*, of an indictable offence, does not include being found guilty of the offence, on a plea of guilty or otherwise, without a conviction being recorded for the offence.

*indictable offence* does not include an indictable offence dealt with summarily.

**135 Amendment of s 247 (Report about person's criminal history)**

Section 247(6)—

*insert—*

*indictable offence* does not include an indictable offence dealt with summarily.

**136 Amendment of s 249 (Requirement for board members to disclose changes in criminal history)**

Section 249(4)—

*insert—*

[s 137]

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*indictable offence* does not include an indictable offence dealt with summarily.

**137 Amendment of sch 3 (Dictionary)**

Schedule 3—

*insert—*

*previously-provided police information*, for chapter 2, part 3, division 1, see section 25D.

**Part 7 Amendment of Further Education and Training Act 2014**

**138 Act amended**

This part amends the *Further Education and Training Act 2014*.

**139 Amendment of s 194 (Protection from liability)**

(1) Section 194—

*insert—*

(2A) This section does not apply to a prescribed person if the person is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

*Note—*

For protection from civil liability in relation to State employees—see the *Public Service Act 2008*, section 26C.

(2) Section 194(3), definition *prescribed person*, paragraphs (b) and (c)—



*omit.*

- (3) Section 194(3), definition *prescribed person*, paragraph (e)—  
*omit, insert—*

(e) a person acting under the direction of any of  
the following—

- (i) the Minister;
- (ii) the chief executive;
- (iii) a public service employee employed in  
the department;
- (iv) an inspector;

- (4) Section 194(3), definition *prescribed person*, paragraphs (d)  
to (f)—

*renumber* as paragraphs (b) to (d).

- (5) Section 194(2A) and (3)—

*renumber* as section 194(3) and (4).

## **Part 7A                      Amendment of Industrial Relations Act 1999**

### **139A Act amended**

This part amends the *Industrial Relations Act 1999*.

### **139B Amendment of s 287 (General rulings)**

- (1) Section 287(1)(a), ‘a pre-modernisation’—

*omit, insert—*

an

- (2) Section 287—

[s 139C]

---

*insert—*

(10A) This section applies despite chapter 5A.

## **Part 7B**                      **Amendment of Property Occupations Act 2014**

### **139C Act amended**

This part amends the *Property Occupations Act 2014*.

### **139D Amendment of s 114 (Revocation of appointment)**

Section 114(4)—

*omit, insert—*

(4) Subsections (5) and (6) apply to an appointment, that has not been assigned, of a property agent for a sole or exclusive agency for the sale of residential property for a term of at least 60 days, other than a commercial scale appointment.

## **Part 8**                      **Minor and consequential amendments**

### **140 Acts amended in sch 1**

Schedule 1 amends the Acts it mentions.

## **Schedule 1      Minor and consequential amendments**

section 140

### **Drugs Misuse Act 1986**

- 1      Section 4, definition *educational institution*, paragraph (a), from 'instructional' to 'educational institution'—**

*omit, insert—*

instructional institution or non-State school

### **Education (Accreditation of Non-State Schools) Act 2001**

- 1      Section 175(2)—**

*omit.*

### **Education (Work Experience) Act 1996**

- 1      Section 5(1)(d)—**

*omit.*

- 2      Schedule, definition *international educational institution*—**

*omit.*

## **Public Interest Disclosure Act 2010**

**1 Section 6(2)(c)(ii)—**

*omit.*

**2 Section 6(2)(c)(iii) and (iv)—**

*renumber* as section 6(2)(c)(ii) and (iii).

## **Public Sector Ethics Act 1994**

**1 Schedule, definition *public sector entity*, paragraph (h)(iv)—**

*omit.*

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