

House of Assembly—No 41

As laid on the table and read a first time, 27 October 2004

South Australia

**Education (Compulsory Education) Amendment
Bill 2004**

A BILL FOR

An Act to amend the *Education Act 1972*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Education Act 1972*

- 4 Amendment of section 5—Interpretation
- 5 Substitution of Part 6

Part 6—Compulsory education

- 74 Obligation to participate in education system
 - 75 Employment of children of compulsory education age
 - 76 Exemptions
 - 77 Action to deal with suspected contravention of compulsory education requirements
 - 78 Persistent contravention of compulsory education requirements
 - 79 Evidentiary provisions
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Education (Compulsory Education) Amendment Act 2004*.

5 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

10 Part 2—Amendment of *Education Act 1972*

4—Amendment of section 5—Interpretation

- (1) Section 5(1), after definition of *the Appeal Board*—insert:

authorised officer means—

- (a) a police officer; or
- 15 (b) a person authorised in writing by the Director-General to exercise the powers of an authorised officer under this Act; or

- (c) a person authorised in writing by the chief executive of the administrative unit of the Public Service that is, under the relevant Minister, responsible for the administration of the *Family and Community Services Act 1972* to exercise the powers of an authorised officer under this Act;

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- (2) Section 5(1), definition of *child of compulsory school age*—delete the definition and substitute:

child of compulsory education age means a child of or above the age of 6 years but under the age of 16 years;

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5—Substitution of Part 6

Part 6—delete the Part and substitute:

Part 6—Compulsory education

74—Obligation to participate in education system

- (1) A child of compulsory education age must participate in the education system—
- (a) by being enrolled at a government school or a registered non-government school and complying with the attendance requirements of the school; or
- (b) if a parent of the child has been approved by the Minister to provide home education for the child—by participating in the home education program approved by the Minister for the child.
- (2) If a child fails to participate in the education system as required by subsection (1), the parents of the child are each guilty of an offence. Maximum penalty: \$1 250.

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75—Employment of children of compulsory education age

- (1) A child of compulsory education age must not be engaged in employment—
- (a) in the case of a child enrolled at a school—
- (i) for a period that conflicts with the attendance requirements of the school; or
- (ii) to such an extent that the child is unfit to comply with the attendance requirements of the school; or
- (b) to such an extent that the child is unfit to obtain proper benefit from participation in the education system.
- (2) If a child is engaged in employment in contravention of subsection (1), the following persons are each guilty of an offence:
- (a) the parents of the child;

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- (b) if the employer is not a parent of the child—the employer.
Maximum penalty: \$5 000.

76—Exemptions

- 5 (1) The Minister may, by written notice, if satisfied that it is in the best interests of the child, grant a temporary exemption from a requirement of this Part in relation to a child, conditionally or unconditionally.
- 10 (2) The Minister may, by written notice, if satisfied that it is in the best interests of the child, vary or revoke an exemption granted under this section.

77—Action to deal with suspected contravention of compulsory education requirements

- 15 (1) If an authorised officer observes a child who appears to be a child of compulsory education age in a public place at a time when children would normally be attending school, the officer may stop and detain the child and require the child to provide the following information:
- 20 (a) the name and address of the child; and
- (b) the age of the child; and
- (c) the school at which the child is enrolled or the place at which the child participates in a home education program; and
- (d) the reason for the child's absence from the school or place.
- 25 (2) An authorised officer may enter a public place (without paying any charge for the entry) for the purpose of checking whether any children of compulsory education age are present there at a time when children would normally be attending school.
- 30 (3) An authorised officer may, in the circumstances referred to in subsection (1), if the child is in the charge or company of some person apparently over the age of 18 years, require the person to provide the information referred to in that subsection.
- 35 (4) If it appears to a police officer, after making reasonable enquiries, that a child does not have a proper reason for being in a public place at a time when children would normally be at school, the officer may take the child into his or her custody and return the child—
- (a) if the child is enrolled at a school—to someone in authority at the school; or
- (b) to a parent of the child.
- 40 (5) An authorised officer may, at any time of the day, call at a place of residence and require any person to provide the following information:
- (a) the full names of any child of compulsory education age present there; and

- (b) the age of the child; and
- (c) the school at which the child is enrolled or the place at which the child participates in a home education program.

(6) A person who fails to comply with a requirement to provide information under this section is guilty of an offence.

Maximum penalty: \$5 000.

78—Persistent contravention of compulsory education requirements

(1) The Minister may convene a panel to review the circumstances of a case in which a child persistently fails to participate in the education system in contravention of this Part.

(2) The panel is to consist of—

- (a) at least 1 person with experience as a teacher in schools (not being a teacher at a school at which the child is enrolled); and
- (b) at least 1 person with particular expertise in behavioural problems of children; and
- (c) at least 1 person with particular knowledge of the services available to address cases of the kind sought to be addressed by this section; and
- (d) any other persons the Minister considers necessary.

(3) The Minister may, by written notice to a parent of the child, require the parent and the child to attend before the panel at a specified time and place.

(4) The Minister must appoint a person to act as an advocate for the child before the panel.

(5) The panel must review the circumstances of the case and produce a written report setting out its findings and its recommendations as to a course of action to promote the child's proper participation in the education system.

(6) The report must be given to the Minister who must, subject to subsection (7), give a copy of the report to the child, the parents of the child and the person appointed as the child's advocate.

(7) The Minister is not obliged to give a copy of the report to a particular person if—

- (a) the Minister is of the opinion that it would not be in the best interests of the child to do so; or
- (b) the whereabouts of the person cannot, after reasonable enquiries, be ascertained.

5 (8) If a panel has been convened under this section in relation to a child's failure to participate in the education system, the Minister must, in determining whether or not any proceedings should be instituted against a parent of the child in respect of that failure, have regard to the course of action recommended by the panel in its report and the extent to which the course of action has been put into effect.

(9) A person who fails to attend with the person's child in accordance with a notice under subsection (3) is guilty of an offence.

Maximum penalty: \$1 250.

10 **79—Evidentiary provisions**

15 (1) An apparently genuine document purporting to be signed by the head teacher of a school stating that, at a specified time, a specified child was enrolled at the school and was not in attendance there in contravention of the attendance requirements of the school will, in any proceedings under this Act, constitute proof of the matters stated in the document in the absence of proof to the contrary.

(2) An apparently genuine document purporting to be signed by an authorised officer and stating that—

20 (a) a specified person is a parent of a child specified in the document; or

(b) a child specified in the document was, at a specified time, of a specified age; or

(c) a child specified in the document was or was not, at a specified time—

25 (i) enrolled at a school or a specified school; or

(ii) a child for whom a person was an approved by the Minister to provide home education; or

(d) a person specified in the document was, at a specified time, the head teacher of a specified school,

30 will, in any proceedings under this Act, constitute proof of the matters stated in the document in the absence of proof to the contrary.