

Legislative Council—No 18

As introduced and read a first time, 7 April 2020

South Australia

**Statutes Amendment (Free Menstrual Hygiene
Products Pilot Program) Bill 2020**

A BILL FOR

An Act to amend the *Education Act 1972* and the *Education and Children's Services Act 2019*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Statutes Amendment (Free Menstrual Hygiene Products Pilot Program) Act 2020*.

2—Commencement

- (1) Subject to this section, this Act comes into operation 6 months after the day on which it is assented to by the Governor.
- 10 (2) If Schedule 1 clause 3 of the *Education and Children's Services Act 2019* does not come into operation on or before the day on which this Act comes into operation in accordance with subsection (1), Part 3 of this Act comes into operation immediately after the commencement of Schedule 1 clause 3 of the *Education and Children's Services Act 2019*.
- 15 (3) If Schedule 1 clause 3 of the *Education and Children's Services Act 2019* comes into operation on or before the day on which this Act comes into operation in accordance with subsection (1), Part 2 of this Act is of no effect.

3—Amendment provisions

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

Part 2—Amendment of *Education Act 1972*

5 4—Insertion of Part 9

After section 100 insert:

Part 9—Minister to establish pilot program for provision of free menstrual hygiene products in Government schools

10 **100A—Minister to establish pilot program for provision of free menstrual hygiene products in Government schools**

- 15 (1) The Minister must, in accordance with any requirements set out in the regulations, establish a program (the *free menstrual hygiene products program*) to trial the provision of free menstrual hygiene products to students in Government schools.
- 20 (2) In establishing the free menstrual hygiene products program, the Minister may—
- (a) specify the duration of the program (being a period of not less than 6 months or until a report is provided under section 100B, whichever is the later); or
 - (b) specify a Government school, or class of Government schools, that is to take part in the program; or
 - (c) impose a cap on the amount of money to be expended in relation to the program; or
 - 25 (d) approve a menstrual hygiene product, or class of menstrual hygiene products, that are to be provided under the program; or
 - (e) specify the ways in which menstrual hygiene products are to be provided to students,
- 30 and may make any other determination in relation to the program as the Minister thinks fit.
- (3) Without otherwise limiting subsection (2)(e), the program must include the provision of menstrual hygiene products by means of dispensing machines.
- 35 (4) The Director-General must take such steps as may be reasonably required to facilitate the free menstrual hygiene products program.
- 40 (5) Subject to the provisions of any other Act, the Minister may, in relation to the free menstrual hygiene products program, enter into an arrangement with a specified person or body in relation to the provision of menstrual hygiene products under the program.

- 5
- (6) The costs of providing prescribed menstrual hygiene products under this section is to be met by the Crown.
 - (7) No civil liability attaches to the Crown, the Minister, the Director-General or any other person or body for an act or omission done in good faith and without negligence in the discharge of a function or power under this section.
 - (8) Nothing in this section prevents a school from providing any other menstrual hygiene products, or any other service related to menstrual hygiene, as the school thinks fit.

10 **100B—Commissioner for Children and Young People to inquire into and report on free menstrual hygiene products program**

- 15
- (1) The Commissioner for Children and Young People must, no later than 6 months after the commencement of the free menstrual hygiene products program, cause a report to be prepared and provided to the Minister in relation to the program.
 - (2) Without limiting subsection (1), a report under that subsection may contain recommendations of the Commissioner for Children and Young People relating to whether the program should be made permanent (either with or without modification).
 - (3) The Minister must, within 6 sitting days after receiving a report under subsection (1) cause a copy of the report to be laid before both Houses of Parliament.
- 20

25 **Part 3—Amendment of *Education and Children's Services Act 2019***

5—Insertion of Part 13A

After section 132 insert:

30 **Part 13A—Minister to establish pilot program for provision of free menstrual hygiene products in Government schools**

132A—Application of Part

- 35
- (1) This Part applies in relation to Government schools only.
 - (2) In the case where the Minister has, before the commencement of this Part, established a free menstrual hygiene products program under Part 9 of the *Education Act 1972* (as enacted by the *Statutes Amendment (Free Menstrual Hygiene Products Pilot Program) Act 2020*), the Minister may continue the program as so established (with or without modification) and, in such a case, the program as continued will be taken to be a free menstrual hygiene products program established under this Part.
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132B—Minister to establish pilot program for provision of free menstrual hygiene products in Government schools

- 5
- (1) The Minister must, in accordance with any requirements set out in the regulations, establish a program (the *free menstrual hygiene products program*) to trial the provision of free menstrual hygiene products to students in Government schools.
- (2) In establishing the free menstrual hygiene products program, the Minister may—
- 10
- (a) specify the duration of the program (being a period of not less than 6 months or until a report is provided under section 132C, whichever is the later); or
- (b) specify a Government school, or class of Government schools, that is to take part in the program; or
- 15
- (c) impose a cap on the amount of money to be expended in relation to the program; or
- (d) approve a menstrual hygiene product, or class of menstrual hygiene products, that are to be provided under the program; or
- 20
- (e) specify the ways in which menstrual hygiene products are to be provided to students,
- and may make any other determination in relation to the program as the Minister thinks fit.
- (3) Without otherwise limiting subsection (2)(e), the program must include the provision of menstrual hygiene products by means of dispensing machines.
- 25
- (4) The Chief Executive must take such steps as may be reasonably required to facilitate the free menstrual hygiene products program.
- (5) Subject to the provisions of any other Act, the Minister may, in relation to the free menstrual hygiene products program, enter into an arrangement with a specified person or body in relation to the provision of menstrual hygiene products under the program.
- 30
- (6) The costs of providing prescribed menstrual hygiene products under this section is to be met by the Crown.
- (7) No civil liability attaches to the Crown, the Minister, the Chief Executive or any other person or body for an act or omission done in good faith and without negligence in the discharge of a function or power under this section.
- 35
- (8) Nothing in this section prevents a school from providing any other menstrual hygiene products, or any other service related to menstrual hygiene, as the school thinks fit.
- 40

132C—Commissioner for Children and Young People to inquire into and report on free menstrual hygiene products program

- 5
- (1) The Commissioner for Children and Young People must, no later than 6 months after the commencement of the free menstrual hygiene products program, cause a report to be prepared and provided to the Minister in relation to the program.
- 10
- (2) Without limiting subsection (1), a report under that subsection may contain recommendations of the Commissioner for Children and Young People relating to whether the program should be made permanent (either with or without modification).
- (3) The Minister must, within 6 sitting days after receiving a report under subsection (1) cause a copy of the report to be laid before both Houses of Parliament.
- 15
- (4) However, the Commissioner for Children and Young People need not provide a report under this section if the Commissioner has provided a report under section 100B of the *Education Act 1972* (as enacted by the *Statutes Amendment (Free Menstrual Hygiene Products Pilot Program) Act 2020*).