

South Australia

Senior Secondary Assessment Board of South Australia (Review) Amendment Act 2008

An Act to amend the *Senior Secondary Assessment Board of South Australia Act 1983*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Senior Secondary Assessment Board of South Australia Act 1983*

- 4 Amendment of long title
- 5 Amendment of section 1—Short title
- 6 Amendment of section 4—Interpretation
- 7 Insertion of section 5
 - 5 Legislative principles
- 8 Substitution of heading to Part 2
- 9 Amendment of section 7—The Board
- 10 Substitution of sections 8 and 9
 - 8 Membership of Board
 - 9 Terms and conditions of office
- 11 Amendment of section 9A—Chief Executive Officer
- 12 Amendment of section 10—Procedures etc of Board
- 13 Amendment of section 12—Delegation
- 14 Amendment of section 15—Functions of Board
- 15 Amendment of section 16—Powers of Board
- 16 Insertion of section 17A
 - 17A Ministerial directions
- 17 Substitution of section 19
 - 19 Reports and budgets
 - 19A Accounts and audit
- 18 Amendment of section 20—Report
- 19 Amendment of section 23—Regulations
- 20 Insertion of Schedule 1
 - Schedule 1—Designated entities
 - 1 Designated entities
 - 2 Amendment of Schedule

Schedule 1—Transitional provisions

- 1 Membership of Board
-

2	Chief Executive Officer of Board
3	Staff

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Senior Secondary Assessment Board of South Australia (Review) Amendment Act 2008*.

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.

Part 2—Amendment of *Senior Secondary Assessment Board of South Australia Act 1983*

4—Amendment of long title

Long title—delete "establish an authority to be known as the *Senior Secondary Assessment Board of South Australia*" and substitute:

provide for the continuation of an authority to be known as the *SACE Board of South Australia*

5—Amendment of section 1—Short title

Section 1—delete "*Senior Secondary Assessment Board of South Australia Act 1983*" and substitute:

SACE Board of South Australia Act 1983

6—Amendment of section 4—Interpretation

- (1) Section 4(1), definition of *the Board*—delete the definition and substitute:

appointed member of the Board means a member of the Board appointed by the Governor under section 8(1)(b);

Board means the *SACE Board of South Australia* constituted under this Act;

- (2) Section 4(1)—after the definition of *Chief Executive Officer* insert:

designated entity means a person or body referred to in Schedule 1;

- (3) Section 4(1)—definition of *employing authority*—delete the definition and substitute:

employing authority means—

- (a) unless paragraph (b) applies—the Chief Executive Officer;

- (b) if the Governor thinks fit, a person, or a person holding or acting in an office or position, designated by proclamation made for the purposes of this definition;
- (4) Section 4(1), definition of *senior secondary education*—delete the definition and substitute:

SACE means the *South Australian Certificate of Education* awarded by the Board under this Act;
- (5) Section 4(1), definition of *student*—delete the definition and substitute:

student means a person who is undertaking studies that lead to achievement of the SACE (if the person qualifies under the requirements of that award).
- (6) Section 4(2)—delete subsection (2) and substitute:
 - (2) The Governor may, from time to time as the Governor thinks fit, vary or revoke a proclamation made for the purposes of the definition of *employing authority*, or make a new proclamation for the purposes of that definition.
 - (3) For the purposes of this Act, the 3 school education sectors are:
 - (a) the Catholic schools education sector;
 - (b) the independent schools education sector;
 - (c) the public schools education sector.

7—Insertion of section 5

After section 4 insert:

5—Legislative principles

The following principles will apply in connection with the operation of this Act:

- (a) all young people are to be encouraged to obtain a formal education qualification that helps them to live and participate successfully in the world as it constantly changes, after taking into account their goals and abilities;
- (b) it is recognised—
 - (i) that young people acquire skills, values and knowledge associated with their education through their individual endeavours and through a range of learning experiences and in a variety of situations that may include, as well as schools, workplaces and training and community organisations; and
 - (ii) that young people require a range of skills and knowledge, including literacy and numeracy skills, to assist them to succeed in the wider community;
- (c) the qualification that is awarded by the Board should—

- (i) acknowledge the skills and knowledge that have been acquired through formal education and training and other learning processes; and
 - (ii) reflect rigorous standards and community expectations; and
 - (iii) be consistent with an appropriate Australian qualification framework;
- (d) cooperation and collaboration between the Board, the school education sectors and the Minister are to be recognised as fundamental elements to achieving the best outcomes for students seeking to qualify for the SACE.

8—Substitution of heading to Part 2

Heading to Part 2—delete the heading and substitute:

Part 2—SACE Board of South Australia

9—Amendment of section 7—The Board

Section 7(1)—delete subsection (1) and substitute:

- (1) The Senior Secondary Assessment Board of South Australia continues in existence as the *SACE Board of South Australia*.

10—Substitution of sections 8 and 9

Sections 8 and 9—delete the sections and substitute:

8—Membership of Board

- (1) The Board is to consist of—
 - (a) the Chief Executive Officer (*ex officio*); and
 - (b) 11 members appointed by the Governor on the nomination of the Minister.
- (2) The Minister must, in making nominations for appointment to the Board, seek to ensure that the membership of the Board comprises persons who—
 - (a) together provide a broad range of backgrounds that are relevant to the activities and interests of the Board; and
 - (b) together have the abilities, knowledge and experience necessary to enable the Board to carry out its functions effectively.
- (3) Without limiting subsection (2)—
 - (a) at least 4 of the appointed members of the Board must have specific knowledge and expertise in relation to the provision of senior secondary education and, of these members, at least 1 must be a person who is currently engaged, or who has recently been engaged, in the provision of senior secondary education; and

- (b) 1 of the appointed members of the Board must be a person specifically nominated by the South Australian Commission for Catholic Schools Inc.; and
 - (c) 1 of the appointed members of the Board must be a person specifically nominated by the Association of Independent Schools of South Australia; and
 - (d) 1 of the appointed members of the Board must be a person specifically nominated by the Director-General of Education; and
 - (e) the Minister must seek to achieve a reasonable gender balance in the membership of the Board.
- (4) Subject to the requirements of subsections (2) and (3), the Minister should, before nominating a person for appointment to the Board (other than for the purposes of subsection (3)(b), (c) or (d)), under a scheme determined by the Minister for the purposes of this section—
- (a) call for expressions of interest; and
 - (b) take into account any representations made by a designated entity.
- (5) The Governor may, on the recommendation of the Minister, appoint 1 member of the Board to be the presiding member of the Board and another member of the Board to be the deputy presiding member (subject to the qualification that the Chief Executive Officer cannot hold an appointment under this subsection).
- (6) The Governor may appoint a suitable person to be deputy to a member of the Board and a person so appointed may act in the place of the member of whom he or she has been appointed—
- (a) while the member is absent; or
 - (b) if the office of the member has become vacant—until the vacancy is filled by the making of a new appointment under this section.

9—Terms and conditions of office

- (1) An appointed member of the Board will be appointed on terms and conditions determined by the Governor for a term, not exceeding 3 years, specified in the instrument of appointment and is, on the expiration of a term of office, eligible for reappointment.
- (2) The Governor may remove an appointed member of the Board from office for—
 - (a) a breach of, or non-compliance with, the conditions of appointment; or
 - (b) mental or physical incapacity to carry out office duties satisfactorily; or
 - (c) neglect of duty; or

- (d) dishonourable conduct.
- (3) The office of an appointed member of the Board becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is removed from office by the Governor pursuant to subsection (2).
- (4) On the office of a member of the Board becoming vacant, a person must be appointed in accordance with this Act to the vacant office.

11—Amendment of section 9A—Chief Executive Officer

Section 9A(1), (3) and (4)—delete subsections (1), (3) and (4) and substitute:

- (1) There will be a Chief Executive Officer of the Board.
- (2) The Chief Executive Officer will be responsible to the Board for the conduct of the business of the Board.
- (3) The Chief Executive Officer will be appointed by the Governor on the recommendation of the Minister on terms and conditions approved by the Premier.
- (4) The Minister must consult with the Board before the Minister makes a recommendation for the purposes of subsection (3).

12—Amendment of section 10—Procedures etc of Board

- (1) Section 10(1)—delete subsection (1) and substitute:
 - (1) A quorum of the Board consists of one half of the total number of its appointed members (ignoring any fraction resulting from the division) plus 1.
- (2) Section 10(2)—delete "the members present" and substitute:

the appointed members present
- (3) Section 10(3)—delete "by members" and substitute:

by appointed members
- (4) Section 10(4)—after "Each" insert:

appointed
- (5) Section 10(4)—after "casting vote" insert:

(and the Chief Executive Officer does not have a right to a vote)

(6) Section 10—after subsection (4) insert:

- (4a) A conference by telephone or other electronic means between the members of the Board will, for the purposes of this section, be taken to be a meeting of the Board at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by the Board for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.
- (4b) A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—
 - (a) notice of the proposed resolution is given to all members of the Board in accordance with procedures determined by the Board; and
 - (b) a majority of the appointed members of the Board express concurrence in the proposed resolution by letter, facsimile transmission, e-mail or other written or electronic communication setting out the terms of the resolution.

13—Amendment of section 12—Delegation

- (1) Section 12(1)(a) and (b)—delete paragraphs (a) and (b) and substitute:
 - (a) to a specified person or body; or
 - (b) to a person occupying a specified office or position.
- (2) Section 12(2)—after paragraph (a) insert:
 - (ab) if the instrument of delegation so provides, may be further delegated by the delegate; and

14—Amendment of section 15—Functions of Board

- (1) Section 15(1)—delete subsection (1) and substitute:
 - (1) The Board has the following functions:
 - (a) to establish a qualification (to be called the *South Australian Certificate of Education* or *SACE*) to be awarded by the Board after taking into account any requirements prescribed by the regulations;
 - (b) to determine the requirements for the achievement of the *SACE*;
 - (c) to commission the development and review of courses and subjects;

- (d) to accredit subjects and courses (whether prepared at the direction of the Board or submitted to it by a school, institution or other authority or organisation) that will be recognised by the Board as being suitable for the purposes of the SACE;
- (e) to approve learning frameworks in order to provide the structures within which subjects and courses may be developed;
- (f) to assess, in such manner and to such extent as the Board thinks fit, achievements in or satisfactory completion of subjects, courses or other requirements determined by the Board for the purposes of the SACE;
- (g) to recognise, in such manner and to such extent as the Board thinks fit—
 - (i) assessments of students made by schools, institutions or other authorities or organisations;
 - (ii) the achievements of a student in or towards completion of any activities or requirements recognised by the Board for the purposes of the SACE;
- (h) to assure the quality and suitability of processes and standards used to assess the achievements of students for the purposes of the SACE;
- (i) to prepare and maintain records of assessments or achievements made or recognised by the Board and to provide, on request, a copy or extract of those records to a student or former student or to such other person as the student or former student may direct;
- (j) to certify the successful completion by a student of any studies or other activities that contribute to qualifying for the SACE and, if or when the SACE has been achieved, to award the SACE;
- (k) to prepare and publish—
 - (i) information on the requirements determined by the Board under paragraph (b); and
 - (ii) guidelines relating to the operation of paragraph (c); and
 - (iii) criteria to apply in connection with the accreditation of subjects or courses under paragraph (d) or the approval of learning frameworks under paragraph (e); and
 - (iv) information on the assessment processes established under paragraph (f); and

- (v) advice on the assessments and achievements that will be recognised for the purposes of paragraph (g); and
 - (vi) information on the quality assurance processes established under paragraph (h); and
 - (vii) information on the method for gaining access to records under paragraph (i) and notifying achievements under paragraph (j);
 - (l) to undertake or commission research related to any matter for which the Board is responsible and to publish the results or such research as the Board thinks fit;
 - (m) to the extent determined by the Minister or the Board, to collect, record and collate information that is directly related to the participation (or non-participation) of children of compulsory education age in secondary education, or training or development programs or opportunities, and, in relation to any such information—
 - (i) to provide the information to the Minister, or other authorities or organisations determined by the Minister; and
 - (ii) to publish the information in such other manner as the Board thinks fit;
 - (n) to keep under review the operation of this Act and the policies and processes of the Board;
 - (o) to perform other functions assigned to the Board under this or any other Act.
- (2) Section 15(2)—delete "syllabuses" and substitute:
requirements
- (3) Section 15(3)—after subsection (2) insert:
- (3) The Board—
 - (a) may act under subsection (1)(c)—
 - (i) on its own initiative after consultation with the Minister, and the 3 school sectors (jointly); or
 - (ii) on the basis of a request by the Minister, or the 3 school sectors (jointly); and
 - (b) must, in connection with the implementation of its requirements for the achievement of the SACE, take steps to assist schools and education authorities to provide information and professional development opportunities to teachers and other persons who work with students who are seeking to obtain the SACE; and

- (c) must, in the performance of its functions, to such extent as the Board considers reasonable, take into account the views of—
 - (i) relevant schools, institutions or authorities; and
 - (ii) teachers, instructors, trainers and counsellors; and
 - (iii) the 3 school sectors; and
 - (iv) bodies within the tertiary and higher education sectors; and
 - (v) employer and employee associations; and
 - (vi) other relevant accreditation and regulation bodies; and
 - (vii) any body or authority that represents the Government of another jurisdiction that has a working relationship with the Board; and
 - (d) without limiting any steps that the Board may take on its own initiative, must give effect to any decision, made by a Ministerial Council, that is specified by the Minister for the purposes of this paragraph.
- (4) The Board must provide to the Minister any information or report that the Minister reasonably requires in connection with the Minister's portfolio responsibilities for education in the State.

15—Amendment of section 16—Powers of Board

Section 16—after its present contents (now to be designated as subsection (1)) insert:

- (2) The Board may—
 - (a) provide professional services and related material to authorities or other entities elsewhere in Australia, or overseas;
 - (b) act outside of the State for any other purpose connected with the performance of its functions or the exercise of its powers.

16—Insertion of section 17A

After section 17 insert:

17A—Ministerial directions

- (1) Subject to subsection (2), the Minister may give the Board a direction about any matter relevant to the performance or exercise of a function or power of the Board.
- (2) No Ministerial direction may be given—
 - (a) in relation to the content or accreditation of any subject or course under this Act; or

- (b) in relation to the assessment of, or recording the results of, a student's achievements or learning.
- (3) A direction given by the Minister under this section must be in writing.
- (4) If the Minister gives a direction under this section—
 - (a) the Minister must prepare a report on the matter and cause a copy of the report to be laid before each House of Parliament; and
 - (b) the Board must cause a statement of the fact that the direction was given to be published in its next annual report.

17—Substitution of section 19

Section 19—delete the section and substitute:

19—Reports and budgets

- (1) The Board must, at the request of the Minister, submit to the Minister a statement setting out the Board's strategic directions and targets and, if so requested, the Board's budget, for a specified period.
- (2) The Minister may approve a statement submitted under this section with or without modification.
- (3) The Board may not expend money in a manner that is inconsistent with a statement approved under subsection (2) or its budget unless the expenditure is approved by the Minister, or a person authorised by the Minister.

19A—Accounts and audit

- (1) The Board must cause proper accounting records to be kept in relation to its financial affairs, and must have annual statements of account prepared in respect of each calendar year.
- (2) The accounting records and the statements of account must comply with—
 - (a) any relevant instruction of the Treasurer under section 41 of the *Public Finance and Audit Act 1987*; and
 - (b) any further requirement imposed by the Auditor-General.
- (3) The Auditor-General may at any time audit the accounts of the Board and must audit the annual statements of account.

18—Amendment of section 20—Report

- (1) Section 20—after subsection (1) insert:
 - (1a) The report must—
 - (a) incorporate the audited accounts of the Board for the relevant year; and

- (b) include a specific report on the consultation processes that the Board has established or used for the purposes of this Act during the relevant year, including an assessment of the extent to which those processes have assisted the Board in the performance of its functions; and
 - (c) contain any other information required by this Act.
- (2) Section 20(2)—after "must" insert:
- , within 14 sitting days after receiving a report under this section,

19—Amendment of section 23—Regulations

Section 23(2)(a)—delete paragraph (a) and substitute:

- (a) provide for matters of a saving or transitional nature consequent on amendments made to this Act, including matters that relate to the subjects, patterns of study and other requirements associated with obtaining certification of achievements for the purposes of a qualification awarded by the Board under this Act;

20—Insertion of Schedule 1

After section 23 insert:

Schedule 1—Designated entities

1—Designated entities

Subject to clause 2, the following will be designated entities:

- (a) the Chief Executive of the Department primarily responsible for assisting the Minister responsible for the administration of the *Education Act 1972*;
- (b) the Chief Executive of the Department primarily responsible for assisting the Minister responsible for the administration of the *Technical and Further Education Act 1975*;
- (c) The University of Adelaide;
- (d) The Flinders University of South Australia;
- (e) the University of South Australia;
- (f) the Training and Skills Commission;
- (g) the Pitjantjatjara Yankunytjatjara Education Committee;
- (h) the Association of Independent Schools of South Australia—Secondary/Combined Committee;
- (i) the South Australian Commission for Catholic Schools Inc.;
- (j) the Non-Government Schools Registration Board;
- (k) the South Australian Secondary Principals Association;
- (l) the South Australian Special Schools Principals' Association;

- (m) the Association of Principals of Catholic Secondary Schools;
- (n) the Australian Education Union (SA Branch);
- (o) the Independent Education Union (SA);
- (p) the South Australian Employers' Chamber of Commerce and Industry Inc. (*Business SA*);
- (q) the United Trades and Labor Council;
- (r) the South Australian Association of State Schools Organisation Incorporated;
- (s) the South Australian Association of School Parents' Clubs Incorporated;
- (t) the Federation of Catholic School Parent Communities;
- (u) the SA Isolated Children's Parents' Association Incorporated;
- (v) the *Minister's Youth Council*.

2—Amendment of Schedule

The Governor may, by regulation, amend clause 1 by adding or deleting specified persons or bodies.

Schedule 1—Transitional provisions

1—Membership of Board

To avoid doubt, a person holding office as a member of the Senior Secondary Assessment Board of South Australia immediately before the commencement of this clause will, on that commencement, cease to hold that office.

2—Chief Executive Officer of Board

The person holding office as the Chief Executive Officer of the Senior Secondary Assessment Board of South Australia immediately before the commencement of this clause will, on that commencement, be taken to be employed under the *Senior Secondary Assessment Board of South Australia Act 1983* as amended by this Act—

- (a) with continuity of service; and
- (b) without affecting existing conditions of employment or existing or accrued rights to leave; and
- (c) for the balance of the term of any contract of employment in existence immediately before that commencement.

3—Staff

To avoid doubt, the amendments made to the *Senior Secondary Assessment Board of South Australia Act 1983* by section 6(3) and (6) of this Act will not affect the continuity of employment (including as to service, conditions or rights) of a person employed under that Act.