

South Australia

Senior Secondary Assessment Board of South Australia Act 1983

An Act to establish an authority to be known as the *Senior Secondary Assessment Board of South Australia*; to prescribe its functions and powers; and for other purposes.

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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 Act 1983*.

4—Interpretation

In this Act, unless the contrary intention appears—

the Board means the Senior Secondary Assessment Board of South Australia established under this Act;

Chief Executive Officer means the person for the time being holding the office of Chief Executive Officer of the Board or, where a person is acting in that office, means the person so acting;

institution includes an institution the principal function of which is the education of students at the tertiary level;

senior secondary education means year 11 level and year 12 level of secondary education;

student means a secondary school student, and includes any other person undertaking a course at the secondary level of education.

Note—

For definition of divisional penalties (and divisional expiation fees) see Appendix.

Part 2—The Senior Secondary Assessment Board of South Australia

Division 1—Constitution of the Board

7—The Board

- (1) The *Senior Secondary Assessment Board of South Australia* is established.
- (2) The Board—
 - (a) is a body corporate with perpetual succession and a common seal;
 - (b) is capable of suing and being sued.
- (3) Where an apparently genuine document purports to bear the common seal of the Board, it will be presumed in all legal proceedings, in the absence of proof to the contrary, that the document has been duly executed by the Board.

8—Membership of Board

- (1) The Board is to consist of—
 - (a) the Chief Executive Officer; and
 - (b) twenty-six other members appointed by the Governor of whom—

- (i) four must be persons nominated by the Director-General of Education and at least one of those four a practising teacher;
 - (ii) one must be a person nominated by the Director-General of Technical and Further Education;
 - (iii) two must be persons nominated by the Council of The University of Adelaide;
 - (iv) two must be persons nominated by the Council of The Flinders University of South Australia;
 - (v) two must be persons nominated by the Council of the University of South Australia;
 - (vi) one must be a person nominated by the South Australian Independent Schools Board Incorporated;
 - (vii) one must be a person nominated by the South Australian Commission for Catholic Schools;
 - (viii) one must be a person nominated by the South Australian Association of State School Organisations Incorporated;
 - (ix) two must be persons nominated by the South Australian Institute of Teachers and at least one of those two a practising teacher;
 - (x) one must be a person nominated by the Association of Non-Government Education Employees;
 - (xi) one must be a person nominated by the South Australian Association of School Parents Clubs Incorporated;
 - (xii) one must be a person nominated by The Federation of Parents and Friends Associations of Independent Schools of S.A.;
 - (xiii) one must be a person nominated by The Federation of Parents and Friends Associations of South Australian Catholic Schools;
 - (xiv) one must be a person nominated by the Industrial and Commercial Training Commission;
 - (xv) two must be persons nominated by the United Trades and Labor Council;
 - (xvi) two must be persons nominated by the Chamber of Commerce and Industry, South Australia, Incorporated;
 - (xvii) one must be a person nominated by the Commissioner of Equal Opportunity.
- (2) A member of the Board appointed by the Governor will be appointed for such term of office, not exceeding three years, and upon such conditions, as the Governor determines and is, on the expiration of a term of office, eligible for reappointment.
- (3) The Governor may appoint a person to be the deputy of an appointed member of the Board and that person may, in the absence of that member, act as a member of the Board.

- (4) The Governor may remove from office an appointed member of the Board for—
 - (a) a breach of, or non-compliance with, the conditions of appointment; or
 - (b) mental or physical incapacity to carry out official duties satisfactorily; or
 - (c) neglect of duty; or
 - (d) dishonourable conduct.
- (5) 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 (4).
- (6) Upon the office of a member of the Board becoming vacant, a person must be appointed in accordance with this Act to the vacant office.

9—Appointment of Chairman and Deputy Chairman

- (1) The Board must appoint one of its members to be the presiding member of the Board and another of its members to be the deputy presiding member of the Board.
- (2) The presiding member and the deputy presiding member will hold office for one year and, upon the expiration of their terms of office, are eligible for reappointment.

9A—Chief Executive Officer

- (1) There will be a Chief Executive Officer of the Board who will be responsible to the Board for the conduct of the business of the Board.
- (3) Appointments to the office of Chief Executive Officer of the Board will be made by the Board for such a term, and upon such conditions, as may be determined by the Board and approved by the Minister.
- (4) The Board must not appoint a person pursuant to subsection (3) unless he or she is a person approved by the Minister for that appointment.
- (5) The Board may appoint a suitable person to act in the office of Chief Executive Officer during any period for which the Chief Executive Officer is absent or unavailable to carry out official duties, or for which there is a temporary vacancy in the office.

10—Procedures etc of Board

- (1) Sixteen members of the Board constitute a quorum at a meeting of the Board.
- (2) The presiding member, or in his or her absence, the deputy presiding member, must preside at a meeting of the Board and in the absence of both the presiding member and the deputy presiding member the members present at the meeting must decide who is to preside.
- (3) A decision carried by a majority of the votes cast by members of the Board present at a meeting is a decision of the Board.

- (4) Each member of the Board is entitled to one vote on a matter arising for determination by the Board and the person presiding at a meeting of the Board has, in the event of an equality of votes, a second or casting vote.
- (5) The Board must cause accurate minutes to be kept of the business conducted at meetings of the Board.
- (6) Subject to this Act, the procedure for the calling of meetings of the Board, and the conduct of business at meetings of the Board, must be determined by the Board.

11—Validity of acts of Board and immunity of members

- (1) No act or proceeding of the Board is invalid by reason only of a vacancy in the office of a member, or a defect in the appointment of a member.
- (2) No liability attaches to a member of the Board for any act or omission by the member, or by the Board, in good faith and in the exercise or purported exercise of powers or functions or in the discharge or purported discharge of duties under this Act.
- (3) Any liability that would, but for subsection (2), attach to a member of the Board attaches to the Crown.

12—Delegation

- (1) The Board may delegate any of its functions or powers—
 - (a) to a member or employee of the Board or to a person appointed by it to assess students; or
 - (b) to a committee established by the Board under this Act.
- (2) A delegation under this section—
 - (a) may be made subject to such conditions as the Board thinks fit; and
 - (b) is revocable at will and does not derogate from the power of the Board to act in any matter itself.

13—Disclosure of interest

- (1) A member of the Board who is directly or indirectly interested in a contract, or proposed contract, made by, or in the contemplation of, the Board—
 - (a) must, as soon as the member becomes aware of the contract or proposed contract, disclose the nature of the interest to the Board; and
 - (b) must not take part in any deliberations or decision of the Board with respect to that contract.

Penalty: Division 9 fine.

- (2) A disclosure made under this section must be recorded in the minutes of the Board.
- (3) Where a member makes a disclosure of interest in respect of a contract or proposed contract in accordance with this section—
 - (a) the contract is not liable to be avoided by the Board on any ground arising from the fiduciary relationship between the member and Board; and
 - (b) the member is not liable to account to the Board for profits derived from the contract.

14—Allowances and expenses of members

A member of the Board is, if the Governor thinks fit, entitled to such allowances and expenses as may be determined by the Governor.

Division 2—Functions and powers of the Board

15—Functions of Board

- (1) The Board has the following functions:
 - (a) to approve syllabuses (which may consist of a detailed structure or a more general outline) for subjects comprised in the prescribed certification requirements of senior secondary education that have been prepared at the direction of the Board or submitted to it by a school, institution or other authority;
 - (b) to direct the preparation of syllabuses for its consideration under paragraph (a);
 - (c) to assess, by such means as the Board thinks fit, achievements in or satisfactory completion of subjects or other requirements comprised in the prescribed certification requirements by students at senior secondary education levels;
 - (d) to recognise, if it thinks fit and to such extent as it thinks fit, assessments of students at senior secondary education levels made by schools, institutions or other authorities;
 - (e) to recognise, if it thinks fit and to such extent as it thinks fit, the qualifications or experience of a student in or towards completion of the prescribed certification requirements of senior secondary education;
 - (f) to prepare and maintain records of assessments 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 directs;
 - (g) to certify satisfactory completion of the prescribed certification requirements of senior secondary education by students;
 - (h) to provide to schools, institutions and other authorities, on request, such information as they may reasonably request in relation to the Board's policies and processes, including information as to the criteria that will be applied by the Board in granting approvals and recognitions;
 - (i) to publicise the prescribed certification requirements of senior secondary education and the assessment, recognition and certification processes as it thinks fit and to make syllabuses prepared or approved by the Board available to members of the public;
 - (j) to undertake or commission research related to any matter for which it is responsible and to publish the results or such research as it thinks fit;
 - (k) to keep under review the operation of this Act and the policies and processes of the Board.

- (2) The Board may adopt and apply such transitional arrangements with respect to syllabuses, assessment or other processes of the Board as it considers appropriate in view of any legislative change or any change in its policies or processes.

16—Powers of Board

For the purpose of carrying out its functions the Board may—

- (a) acquire, hold, deal with and dispose of real and personal property;
- (b) enter into any kind of contract or arrangement;
- (c) acquire or incur any other rights or liabilities;
- (d) exercise any other powers that are necessary for, or incidental to, the efficient discharge of its functions.

17—Committees and sub-committees

- (1) The Board may establish committees to advise the Board on any matter related to the administration of this Act or to carry out functions on behalf of the Board.
- (2) A committee established under subsection (1) may delegate any of its functions or powers to a sub-committee established by it for that purpose.
- (3) A delegation under subsection (2)—
 - (a) may be made subject to such conditions as the committee thinks fit; and
 - (b) is revocable at will and does not derogate from the power of the committee to act in any matter itself.
- (4) A person who is not a member of the Board may be appointed to be a member of a committee or a sub-committee.

18—Employees of Board

- (1) The Board may, with the approval of the Minister and on such conditions as it thinks fit, engage such employees as are necessary to assist it in carrying out its functions under this Act.
- (3) The Board may make use of the services of officers of a Department of Government with the approval of the Minister administering that Department.

Part 3—Miscellaneous

19—Accounts and audit

- (1) The Board must cause proper accounts to be kept of its financial affairs.
- (2) The Auditor-General may at any time, and must at least once in every year, audit the accounts of the Board.

20—Report

- (1) The Board must, on or before 31 March in each year, deliver to the Minister a report of its operations during the period of 12 months that ended on the preceding 31 December.

- (2) The Minister must cause a copy of the report to be laid before each House of Parliament.

21—Summary offences

Offences against this Act are summary offences.

22—Money required for this Act

The money required for the purposes of this Act must be paid out of money provided by Parliament for those purposes.

23—Regulations

- (1) The Governor may, on the recommendation of the Board, make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
- (a) prescribe specified subjects, patterns of study and other requirements as certification requirements of senior secondary education; and
 - (b) provide for and regulate fees to be charged for goods or services provided by the Board and provide for the waiving or reduction of such fees.
- (3) The regulations may confer discretionary powers on the Board.

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation repealed by principal Act

The *Senior Secondary Assessment Board of South Australia Act 1983* repealed the following:

Public Examinations Board Act 1968

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1983	21	<i>Senior Secondary Assessment Board of South Australia Act 1983</i>	26.5.1983	1.2.1984 (<i>Gazette 19.1.1984 p88</i>)
1983	60	<i>Senior Secondary Assessment Board of South Australia Act Amendment Act 1983</i>	8.9.1983	1.2.1984 (<i>Gazette 19.1.1984 p89</i>)
1990	81	<i>Senior Secondary Assessment Board of South Australia Act Amendment Act 1990</i>	20.12.1990	1.5.1991 (<i>Gazette 24.4.1991 p1376</i>) except ss 3, 6 & 7—27.6.1991 (<i>Gazette 27.6.1991 p2059</i>)
2006	41	<i>Statutes Amendment (Public Sector Employment) Act 2006</i>	14.12.2006	Pt 17 (ss 74—77)—1.4.2007 (<i>Gazette 29.3.2007 p930</i>)

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 81/1990 Sch	1.5.1991
Pt 1		
<i>ss 2 and 3</i>	<i>deleted by 81/1990 Sch</i>	<i>1.5.1991</i>
s 4		
Chief Executive Officer	inserted by 60/1983 s 3	1.2.1984
senior secondary education	inserted by 81/1990 s 3	27.6.1991
<i>the former board</i>	<i>deleted by 81/1990 Sch</i>	<i>1.5.1991</i>
<i>ss 5 and 6</i>	<i>deleted by 81/1990 Sch</i>	<i>1.5.1991</i>
Pt 2		
s 7		
s 7(1)	substituted by 81/1990 Sch	1.5.1991

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s 7(2) and (3)	amended by 81/1990 Sch	1.5.1991
s 8		
s 8(1)	amended by 60/1983 s 4(a) substituted by 81/1990 s 4	1.2.1984 1.5.1991
s 8(2)	amended by 60/1983 s 4(b) amended by 81/1990 Sch	1.2.1984 1.5.1991
s 8(3)	amended by 60/1983 s 4(c) substituted by 81/1990 Sch	1.2.1984 1.5.1991
s 8(4)	amended by 60/1983 s 4(d) amended by 81/1990 Sch	1.2.1984 1.5.1991
s 8(5)	amended by 60/1983 s 4(e) amended by 81/1990 Sch	1.2.1984 1.5.1991
s 8(6)	amended by 81/1990 Sch	1.5.1991
s 9	amended by 81/1990 Sch	1.5.1991
s 9A	inserted by 60/1983 s 5	1.2.1984
s 9A(1)	amended by 81/1990 Sch	1.5.1991
s 9A(2)	<i>deleted by 81/1990 Sch</i>	<i>1.5.1991</i>
s 9A(3)—(5)	amended by 81/1990 Sch	1.5.1991
s 10		
s 10(1)	amended by 81/1990 s 5, Sch	1.5.1991
s 10(2)	substituted by 81/1990 Sch	1.5.1991
s 10(3)—(6)	amended by 81/1990 Sch	1.5.1991
s 11	amended by 81/1990 Sch	1.5.1991
s 13		
s 13(1) and (2)	amended by 81/1990 Sch	1.5.1991
s 14	amended by 81/1990 Sch	1.5.1991
s 15	substituted by 81/1990 s 6	27.6.1991
s 18		
s 18(2)	<i>deleted by 81/1990 Sch</i>	<i>1.5.1991</i>
Pt 3		
s 19		
s 19(1) and (2)	amended by 81/1990 Sch	1.5.1991
s 19(3)	<i>deleted by 81/1990 Sch</i>	<i>1.5.1991</i>
s 20	amended by 81/1990 Sch	1.5.1991
s 21	substituted by 81/1990 Sch	1.5.1991
s 22	amended by 81/1990 Sch	1.5.1991
s 23		
s 23(1)	s 23 amended and redesignated as s 23(1) by 81/1990 s 7	27.6.1991
s 23(2) and (3)	inserted by 81/1990 s 7(b)	27.6.1991

Appendix—Divisional penalties and expiation fees

At the date of publication of this version divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

Note: This appendix is provided for convenience of reference only.