

South Australia

# TAFE SA Act 2025

An Act to continue TAFE SA, to repeal the *TAFE SA Act 2012*, to make consequential amendments to certain other Acts, 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 *TAFE SA Act 2025*.

### **2—Commencement**

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

### **3—Object**

The object of this Act is to provide for TAFE SA—

- (a) to deliver high quality, responsive and industry relevant education and training that responds to the current and future needs of employers, aligns with the strategic priorities of the State, and strengthens the State's economic prosperity through the development of a skilled, adaptable workforce; and
- (b) to ensure equitable access to education and training for all eligible South Australians that assists them to build the skills needed to contribute to the social, cultural, and economic life of their communities both now and in the future; and
- (c) to operate as an efficient, transparent, innovative and accountable public institution underpinned by strong governance, effective leadership, and a commitment to the public interest and educational excellence.

### **4—Interpretation**

In this Act—

***Board*** means the TAFE SA Board established under section 9;

***business plan***—see section 25;

***Chief Executive*** means the person holding or acting in the office of Chief Executive of TAFE SA under section 16;

***director*** means a member of the Board;

***statement of priority***—see section 29;

***TAFE SA grounds*** means all land owned or occupied by TAFE SA or of which TAFE SA has the care, control and management;

***technical and further education*** means—

- (a) education and training recognised for the purposes of a law of the Commonwealth or a law of the State as—
  - (i) vocational education and training; or
  - (ii) higher education; or
- (b) other education and training in any academic, vocational or practical discipline including—
  - (i) further education and skills training; or

- (ii) short courses; or
- (iii) higher education for providing graduates with access to employment or further tertiary study; or
- (c) education and skills training delivered through applied learning methods and approaches where the curriculum is informed by industry.

## Part 2—Administration

### Division 1—TAFE SA

#### 5—TAFE SA

- (1) TAFE SA as established under the *TAFE SA Act 2012* continues in existence as a body corporate.
- (2) TAFE SA—
  - (a) has perpetual succession and a common seal; and
  - (b) is capable of suing and being sued; and
  - (c) is an instrumentality of the Crown; and
  - (d) holds its property on behalf of the Crown; and
  - (e) has all the powers of an individual that are capable of being exercised by a body corporate; and
  - (f) has the functions assigned or conferred by or under this or any other Act.

#### 6—Functions

- (1) The functions of TAFE SA are—
  - (a) to provide technical and further education in a manner that is efficient, effective and responsive to the needs of industry, students and the general community; and
  - (b) to provide access to education and training to persons in metropolitan, non-metropolitan, regional and remote areas; and
  - (c) to engage with Aboriginal and Torres Strait Islander peoples to provide training and education appropriate to address the needs of individuals and their communities; and
  - (d) to provide education and skills training to persons that, if successfully completed or completed in conjunction with other training—
    - (i) may result in a person obtaining a qualification that results in, or provides an opportunity for, the employment of that person; and
    - (ii) may enable a pathway to further learning or training in the vocational education training or higher education sector; and
    - (iii) promotes lifelong learning in the community; and
  - (e) to undertake or facilitate research in the State that relates to technical and further education for the benefit of the community; and

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- (f) to provide inclusive and culturally safe services and environments for students on TAFE SA grounds; and
  - (g) to engage with the vocational education training sector; and
  - (h) to provide consultancy or other services, for a fee or otherwise, in any area in which staff of TAFE SA have particular expertise developed (whether wholly or partly) in the course of, or incidentally to, the provision of technical and further education; and
  - (i) to undertake or provide for the development or use, for commercial, community or other purposes, of any intellectual property, product or process created or developed (whether wholly or partly) in the course of, or incidentally to, the provision of technical and further education; and
  - (j) to develop, make and enforce rules and by-laws relating to the administration or functions of TAFE SA in accordance with this Act; and
  - (k) to perform any other function assigned to TAFE SA by the Minister; and
  - (l) to perform any other functions conferred on TAFE SA by or under this or any other Act.
- (2) Without limiting subsection (1), TAFE SA may—
- (a) in providing technical and further education—
    - (i) provide services at campuses and premises established for the purpose, at industry and commercial premises and elsewhere, whether within or outside the State; and
    - (ii) provide appropriate student support services to assist students in achieving their education and training outcomes; and
    - (iii) provide services to domestic and international students; and
    - (iv) in order to provide students with practical training and experience—
      - (A) establish or carry on an enterprise or activity, for commercial, community or other purposes, in which students are to participate; and
      - (B) provide for the participation of students, on such conditions as TAFE SA thinks fit, in a commercial, community or other enterprise or activity carried on by some other person or body; and
    - (v) provide scholarships or establish other schemes to assist students; and
  - (b) hold, acquire, deal with and dispose of real and personal property; and
  - (c) authorise the use of land, buildings, equipment, facilities or services used for technical and further education for commercial, community or other purposes for a fee or otherwise; and
  - (d) make and enforce policies in relation to any matter associated with TAFE SA; and
  - (e) set and charge fees for goods and services and provide for the collection and waiver of such fees.

- (3) TAFE SA should, in the performance of its functions—
- (a) focus on excellence, and demonstrate integrity in all aspects of its functions and operations; and
  - (b) be responsive to the needs of students, including through equitable practices that recognise diverse student needs; and
  - (c) demonstrate quality and innovation in teaching, including through the application of leading and contemporary industry practices and standards; and
  - (d) focus on the success and impact of its operations on students, graduates, staff and the communities that it serves.
- (4) TAFE must perform its functions—
- (a) in the public interest having regard to its business plan and the objects of the Act; and
  - (b) in an efficient and effective manner, including (if practicable) through shared use of its services, facilities and resources; and
  - (c) having regard to prudential commercial practices.

## **7—Protection of proprietary interests**

- (1) TAFE SA has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of TAFE SA—
- (a) assume a name or description that consists of, or includes, official insignia; or
  - (b) assume a name or description that consists of, or includes, "TAFE" or "technical and further education" in circumstances in which it would be reasonably understood to indicate that the person is TAFE SA; or
  - (c) in the course of a trade or business—
    - (i) use an official title for the purpose of promoting the sale of services or the provision of benefits; or
    - (ii) sell goods marked with official insignia; or
    - (iii) use official insignia for the purpose of promoting the sale of goods or services; or
    - (iv) use "TAFE" or "technical and further education" for the purposes of promoting the sale of goods or services or the provision of benefits, or sell goods marked with "TAFE" or "technical and further education", in circumstances in which it would be reasonably understood to indicate that the goods, services or benefits are provided by or in association with TAFE SA.

Maximum penalty: \$20 000.

- (3) A consent under this section—
- (a) may be given with or without conditions (including conditions requiring payment to TAFE SA); and
  - (b) must be given by written notice addressed to the applicant for the consent; and

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- (c) may be revoked by TAFE SA for a breach of a condition by written notice given to a person who has the benefit of the consent.
- (4) The Supreme Court may, on the application of TAFE SA, grant an injunction to restrain a breach of this section.
- (5) The court by which a person is convicted of an offence against this section may, on the application of TAFE SA, order the convicted person to pay compensation of an amount fixed by the court to TAFE SA.
- (6) Subsections (4) and (5) do not limit any civil remedy that may be available to TAFE SA apart from those subsections.
- (7) The Minister may, by notice in the Gazette, declare a design to be a logo in respect of TAFE SA.
- (8) In this section—

*logo* means a design (the copyright of which is vested in TAFE SA) in respect of which a declaration under subsection (7) is in force;

*official insignia* means a logo or official title or a combination of a logo and official title;

*official title* means TAFE SA.

## **8—Ministerial direction**

- (1) The Minister may give directions to TAFE SA.
- (2) A Ministerial direction must—
- (a) be in writing; and
  - (b) be included in the annual report required under section 27.

## **Division 2—TAFE SA Board**

### **9—Board appointment and responsibilities**

- (1) A Board of directors is established as the governing body of TAFE SA.
- (2) The Board has the following primary responsibilities:
- (a) to ensure that the appropriate business plan, strategies and targets are established for TAFE SA;
  - (b) to oversee the operations and performance of TAFE SA;
  - (c) to ensure compliance with reporting and other requirements of TAFE SA;
  - (d) any matter referred to the Board by the Minister either in a statement of priority or a direction under section 8;
  - (e) any other responsibilities required under this Act.

- (3) The Board is to consist of not less than 6 and not more than 10 members nominated by the Minister and appointed by the Governor, of whom 1 must be a member of the staff of TAFE SA nominated by the Minister after consultation with the Australian Education Union (SA Branch) and the Public Service Association of SA and 1 must be a person nominated by the Minister after consultation with the United Trades and Labor Council (trading as SA Unions).
- (4) In nominating members for appointment to the Board, the Minister must ensure that those nominated include persons who together have, in the Minister's opinion, the expertise, abilities and experience required for the effective performance of TAFE SA's functions including—
  - (a) direct industry experience or direct experience in the education, training or employment sectors; and
  - (b) knowledge or expertise in the education and training of persons who have experienced disadvantage in accessing education, training and work or are from non-metropolitan, regional or remote areas; and
  - (c) skills, experience or expertise in commerce, corporate governance, economics, finance, law or management.
- (5) Without limiting subsection (4), the Minister must, in nominating members for appointment, take reasonable steps to ensure that at least 1 member resides in a rural, regional or remote area of the State.
- (6) In addition, the Minister must, in nominating members for appointment, seek to achieve a reasonable gender balance in the membership of the Board.
- (7) The Governor will appoint 1 of the members to chair meetings of the Board.
- (8) On the office of a director becoming vacant, a person may be appointed under this section to the vacant office.

## **10—Conditions of office of director**

- (1) A director will be appointed for a term, not exceeding 3 years, specified in the instrument of appointment and will, at the expiration of a term of appointment, be eligible for reappointment.
- (2) A director is entitled to such remuneration, allowances and expenses as may be determined by the Governor.
- (3) The Governor may remove a director from office on the recommendation of the Minister.
- (4) The Minister may recommend the removal of a director on any ground that the Minister thinks fit.
- (5) The office of a director becomes vacant if the director—
  - (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 disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth; or

- (e) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
- (f) is removed from office under subsection (3).

## 11—Committees and subcommittees

- (1) The Board may establish committees or subcommittees as the Board thinks fit to advise TAFE SA on any aspect of its objects or functions, or to assist TAFE SA in the performance of its functions.
- (2) A committee or subcommittee established under subsection (1) may, but need not, consist of, or include, a director.
- (3) The procedures to be observed in relation to the conduct of business of a committee or a subcommittee of the Board will be—
  - (a) as determined by the Board; or
  - (b) insofar as the procedure is not determined by the Board—as determined by the relevant committee or subcommittee.
- (4) A member of a committee or subcommittee is entitled to remuneration, allowances and expenses determined by the Minister.
- (5) The *Public Sector (Honesty and Accountability) Act 1995* applies to a member of a committee or subcommittee of the Board as if the committee or subcommittee were an advisory body and the Minister responsible for the administration of this Act were the relevant Minister.

## 12—Board proceedings

- (1) The director appointed to chair meetings of the Board will preside at each meeting of the Board at which the director is present.
- (2) If the director appointed to chair meetings of the Board is absent from a meeting of the Board, a director chosen by the directors present at the meeting will preside at the meeting.
- (3) A quorum of the Board consists of one half of the members of the Board (ignoring any fraction resulting from the division) plus 1.
- (4) The Board must meet at least 4 times in each year.
- (5) Subject to subsection (3), the Board may act notwithstanding vacancies in its membership or a defect in appointment of a member.
- (6) A decision carried by a majority of the votes cast by members at a meeting is a decision of the Board.
- (7) Each director present at a meeting of the Board has 1 vote on any question arising for decision and, if the votes are equal, the director presiding at the meeting may exercise a casting vote.
- (8) A video or telephone conference will, for the purposes of this section, be taken to be a meeting of the Board at which the participating directors are present if—
  - (a) notice of the conference is given to all directors in the manner determined by the Board for the purpose; and

- (b) each participating director is capable of communicating with every other participating director during the conference.
- (9) 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 directors in accordance with procedures determined by the Board; and
  - (b) a majority of the directors express their concurrence in the proposed resolution by letter, email or other written communication setting out the terms of the resolution.
- (10) The Board must cause accurate minutes to be kept of its proceedings.
- (11) Subject to this Act, the Board may determine its own procedures.

### **13—Conflict of interest under *Public Sector (Honesty and Accountability) Act 1995***

A director will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the director has an interest in a matter that is shared in common with those engaged in or associated with the technical and further education sector generally, or a substantial section of those engaged in or associated with the technical and further education sector.

### **14—Common seal**

The following provisions apply in relation to the common seal of TAFE SA:

- (a) the seal can only be affixed to a document pursuant to a resolution of the Board to that effect;
- (b) TAFE SA may, by instrument under its common seal, authorise a director, an employee (whether nominated by name or by duties or position) or any other person to execute documents on behalf of TAFE SA subject to conditions and limitations (if any) specified in the instrument of authority;
- (c) the affixture of the seal to a document must be witnessed in accordance with any determination or policy of the Board;
- (d) if an apparently genuine document purports to bear the common seal of TAFE SA and appears to be duly witnessed, it will be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal was duly affixed to the document.

### **15—Minister's or Treasurer's representative may attend meetings**

- (1) A person authorised in writing by the Minister or the Treasurer may attend (but not participate in) any meeting of the Board and may have access to papers provided to directors for the purposes of the meeting.

- (2) If the Board considers that a matter dealt with at a meeting attended by a representative of the Minister or the Treasurer should be treated for any reason as confidential, the Board may advise the Minister or the Treasurer (as the case requires) of that opinion giving the reason for the opinion, and the Minister or the Treasurer may, subject to subsection (3), act on that advice as the Minister or the Treasurer thinks fit.
- (3) If the Minister or the Treasurer is satisfied on the basis of the Board's advice under subsection (2) that the Board owes a duty of confidence in respect of a matter, the Minister or the Treasurer (as the case may be) must ensure the observance of that duty in respect of the matter, but this subsection does not prevent the Minister or the Treasurer from disclosing the matter as required in the proper performance of ministerial functions or duties.

### **Division 3—Chief Executive and other staff**

#### **16—Chief Executive appointment and responsibilities**

- (1) There will be a Chief Executive of TAFE SA.
- (2) The Chief Executive will be appointed by the Board with the approval of the Minister on terms and conditions approved by the Minister.
- (3) The Chief Executive is responsible to the Board for the conduct of the business of TAFE SA, including—
  - (a) the general operation and the day to day management of TAFE SA; and
  - (b) implementation and reporting in relation to the business plan, including meeting performance objectives and the requirements of the statement of priority; and
  - (c) the development and implementation of the policies and procedures of TAFE SA; and
  - (d) such other matters as may be determined from time to time by the Board.
- (4) The Chief Executive may not be a director but may, on the invitation of the Board, attend a meeting of the Board in an advisory capacity.
- (5) The Board may appoint a suitable person to act in the office of Chief Executive during any period for which the Chief Executive is absent or unavailable to carry out official duties.
- (6) The Board must not remove a person as Chief Executive except with the approval of the Minister.

#### **17—Other staff**

- (1) The other staff of TAFE SA comprise persons employed by the Chief Executive on terms and conditions determined, subject to this Act, by the Chief Executive.
- (2) Terms and conditions determined by the Chief Executive under subsection (1) must be approved by the Commissioner for Public Sector Employment.
- (3) The Minister may not give a direction to TAFE SA relating to the employment, transfer, remuneration, discipline or termination of employment of a particular employee of the Chief Executive.

- (4) The Chief Executive may enter into arrangements contemplated by section 5 of the *Superannuation Act 1988* with respect to an employee of the Chief Executive who was, immediately before the commencement of this section, a contributor under that Act.
- (5) A person who is transferred to the employment of the Chief Executive under this Act and who was immediately before the commencement of this section, a contributor under the *Superannuation Act 1988* may, subject to that Act, remain a contributor.
- (6) This Act does not exclude the operation of the *Fair Work Act 1994* in relation to persons employed under this section.

### **18—Use of staff etc of administrative unit of Public Service**

The Chief Executive may, by agreement with the Minister responsible for an administrative unit of the Public Service, make use of the services of the staff, equipment or facilities of that administrative unit.

## **Division 4—Rules and by-laws**

### **19—Power to make rules**

- (1) TAFE SA may make rules for all or any of the following purposes:
  - (a) to provide for the formation of an association of students, or students and staff, of TAFE SA for the purposes of promoting the interests of students or of students and staff;
  - (b) to provide for matters relating to residential accommodation for students;
  - (c) to provide a scheme for disciplinary action against students, including review of a decision to take disciplinary action;
  - (d) to set standards relating to—
    - (i) student admission and selection; or
    - (ii) staff behaviour or conduct; or
    - (iii) academic standards applicable to staff or students;
  - (e) to provide monetary penalties for contravention of a rule;
  - (f) to provide for any other matter affecting the administration of TAFE SA.
- (2) A copy of the proposed rules is to be sent to each director at least 7 days before the meeting of the Board at which the rules are to be considered.
- (3) Rules made by TAFE SA—
  - (a) take effect on a day specified by the Board in the rule; and
  - (b) must be made publicly available on a website determined by the Board.
- (4) The *Legislative Instruments Act 1978* does not apply to or in relation to a rule made under this section.
- (5) A monetary penalty imposed for contravention of a rule is a debt due to TAFE SA and is recoverable by TAFE SA by action in a court of competent jurisdiction.

- (6) A rule cannot take away or restrict civil or criminal liability under another Act or at common law.

## 20—Power to make by-laws

- (1) TAFE SA may, with the approval of the Minister, make by-laws for all or any of the following purposes:
- (a) to prohibit persons from trespassing on TAFE SA grounds;
  - (b) to prevent damage to TAFE SA grounds or property of TAFE SA and to provide for the recovery of compensation for damage done to TAFE SA grounds or property of TAFE SA;
  - (c) to regulate the driving, riding and parking of vehicles on TAFE SA grounds, including through prohibitions and restrictions relating to speed, mass, traffic flow and other matters, requiring compliance with directions and providing for permits;
  - (d) to set fees for the parking of motor vehicles on TAFE SA grounds and provide for the recovery of those fees;
  - (e) to regulate the conduct of persons on or entering TAFE SA grounds, including by—
    - (i) prohibiting disorderly or offensive behaviour; and
    - (ii) regulating, restricting or prohibiting the bringing of animals onto the grounds and the handling of animals while within the grounds; and
    - (iii) regulating, restricting or prohibiting the bringing of alcoholic liquor, tobacco or other substances onto the grounds and the consumption or use of alcoholic liquor, tobacco or other substances within the grounds; and
    - (iv) regulating the conduct of assemblies or the provision of entertainment;
  - (f) to provide for the removal from TAFE SA grounds by persons authorised in writing by TAFE SA of persons found contravening a by-law, intoxicated persons, or vehicles brought onto or left on the grounds in contravention of a by-law;
  - (g) to provide for the confiscation by persons authorised in writing by TAFE SA of any thing brought onto, left on, possessed or used on TAFE SA grounds in contravention of a by-law;
  - (h) to provide fines (not exceeding \$2 500) for offences against the by-laws;
  - (i) to provide expiation fees (not exceeding \$210) for alleged offences against the by-laws;
  - (j) to provide other matters expedient for the maintenance of good order on TAFE SA grounds or for the protection of property or for the prevention of hindrance to or interference with activities conducted on TAFE SA grounds.
- (2) The *Legislative Instruments Act 1978* (except section 10AA) applies to a by-law made under this section (and consequently a by-law must be laid before Parliament and is subject to disallowance under that Act).

- (3) A by-law may—
- (a) provide that a matter or thing in respect of which a by-law may be made is to be determined according to the discretion of TAFE SA; and
  - (b) be of general, limited or varied application according to the matter, circumstances or any other specified factor to which the by-law is expressed to apply.
- (4) A by-law is to be made and takes effect as follows:
- (a) a copy of the proposed by-law is to be sent to each director at least 7 days before the meeting of the Board at which the by-law is to be considered;
  - (b) if a majority of all the directors vote at a meeting in favour of the proposed by-law, the by-law is to be submitted to the Minister for approval;
  - (c) if the Minister approves the proposed by-law, the by-law is to be published by TAFE SA in the Gazette at the expense of TAFE SA;
  - (d) the by-law is taken to be made on the day of publication and takes effect from that day or a later day specified in the by-law.
- (5) A by-law made by TAFE SA must be made publicly available on a website determined by the Board.
- (6) A by-law cannot take away or restrict civil or criminal liability under another Act or at common law.

## **21—Evidentiary provision**

- (1) An allegation in a complaint that a specified place is within TAFE SA grounds will be taken to be proved in the absence of proof to the contrary.
- (2) In proceedings relating to an offence against a by-law, an allegation in the complaint that a specified person was the owner or driver of a specified vehicle on a specified day will be taken to be proved in the absence of proof to the contrary.
- (3) If, in proceedings relating to an offence against a by-law, it is proved that a vehicle was parked in TAFE SA grounds in contravention of a by-law, it will be presumed, in the absence of evidence to the contrary, that the vehicle was so parked by the owner of the vehicle.

## **22—Fines and expiation fees**

A fine recovered in respect of an offence against a by-law, and an expiation fee paid in relation to an expiation notice issued for an alleged offence against a by-law, must be paid to TAFE SA.

## **Division 5—Barring notice**

### **23—Barring notice**

- (1) TAFE SA may, if satisfied that a person has—
- (a) behaved in an offensive or threatening manner while on TAFE SA grounds; or
  - (b) used abusive, threatening or insulting language to staff or students of TAFE SA; or

- (c) trespassed on TAFE SA grounds; or
- (d) committed or threatened to commit any other offence on, or in relation to, TAFE SA grounds,

issue a written notice to the person (a *barring notice*) barring them from entering or remaining on TAFE SA grounds.

- (2) A barring notice—
  - (a) may be conditional or unconditional; and
  - (b) must specify—
    - (i) the part of TAFE SA grounds to which the order relates; and
    - (ii) the period for which the barring notice will remain in force (which must be a period of not more than 2 years); and
    - (iii) any other prescribed matter; and
  - (c) may be varied, revoked or subject to review in accordance with the requirements specified in the regulations; and
  - (d) must comply with any other requirements specified in the regulations.
- (3) A person who contravenes a barring notice is guilty of an offence.  
Maximum penalty: \$2 500.

## **24—Review of barring notice by Minister**

- (1) A person who is barred under section 23 for a period exceeding 1 month from TAFE SA grounds may apply to the Minister for a review of the barring notice.
- (2) An application under this section must be made in a manner and form determined by the Minister.
- (3) The Minister may, on the hearing of an application for a review of a barring notice, confirm, vary or revoke the notice.
- (4) A barring notice continues to apply pending a determination by the Minister of an application for review of the notice.

## **Division 6—Reporting and information requirements**

### **25—Business plan**

TAFE SA must prepare a business plan that—

- (a) sets out a budget in respect of a financial year (including estimates of its income and expenditure for that period); and
- (b) addresses the strategic direction of TAFE SA (including matters contained in any strategic plan of TAFE SA) in respect of a financial year or such other period as may be notified to TAFE SA by the Minister; and
- (c) complies with any other requirements notified to TAFE SA by the Minister in relation to the form or content of the plan.

## 26—Minister to be advised of change in financial or operating capacity

TAFE SA must advise the Minister, as soon as practicable, of any material development that affects the financial or operating capacity of TAFE SA or gives rise to an expectation that TAFE SA may not be able to meet its debts as and when they fall due.

## 27—Annual report

- (1) TAFE SA must, on or before 30 September in each year, provide a report to the Minister on the performance of its functions under this Act during the previous financial year.
- (2) The Minister must, within 12 sitting days after receiving a report under this section, cause a copy of the report to be laid before each House of Parliament.

## 28—Provision of information to Minister

- (1) TAFE SA must, at the written request of the Minister, provide the Minister with information or documents in the possession or control of TAFE SA that the Minister may require in the manner and form specified by the Minister in the request.
- (2) If documents are provided to the Minister under this section, the Minister may make, retain and deal with copies of the documents as the Minister thinks fit.
- (3) If TAFE SA considers that information provided under this section contains matters that should be treated for any reason as confidential, TAFE SA may advise the Minister of that opinion giving the reason for the opinion, and the Minister may, subject to subsection (4), act on that advice as the Minister thinks fit.
- (4) If the Minister is satisfied on the basis of TAFE SA's advice under subsection (3) that TAFE SA owes a duty of confidence in respect of a matter, the Minister must ensure the observance of that duty in respect of the matter, but this subsection does not prevent the Minister from disclosing the matter as required in the proper performance of ministerial functions or duties.

## Division 7—Statement of priority

### 29—Statement of priority

- (1) A *statement of priority* must be prepared by the Minister that outlines the government's priorities for TAFE SA in respect of a financial year or such other period as may be specified by the Minister in the statement.
- (2) Without limiting the generality of subsection (1), a statement of priority may set out requirements that address governance and financial standards and other matters relating to the functions of TAFE SA and the objects of this Act.
- (3) The Minister must provide a statement of priority to TAFE SA—
  - (a) in the case of the first statement of priority prepared under this section—within a reasonable time after the commencement of this section; or
  - (b) in any other case—within a reasonable time before the commencement of the period to which the statement of priority relates.
- (4) The Minister must, before the end of each financial year, in consultation with the Treasurer and TAFE SA, review the statement of priority.

- (5) The Minister may, at any time, after consultation with the Treasurer and TAFE SA, amend a statement of priority (and the Minister must, as soon as reasonably practicable, provide the amended statement of priority to TAFE SA).
- (6) TAFE SA must, on receiving a statement of priority or an amended statement of priority, review and make such changes to its business plan as may be required to address the requirements set out in the statement or amended statement (as the case may be).

## **Division 8—Financial and other provisions**

### **30—Guarantee of liability by Treasurer**

- (1) The liabilities of TAFE SA are guaranteed by the Treasurer.
- (2) A liability of the Treasurer arising by virtue of a guarantee under subsection (1) will be satisfied out of the Consolidated Account which is appropriated by this section to the necessary extent.
- (3) The Treasurer may, from time to time, after consultation with the Board, fix charges to be paid by TAFE SA in respect of the guarantee provided under this section and determine the times and manner of their payment.

### **31—Tax and other liabilities of TAFE SA**

- (1) The Treasurer may require TAFE SA (or TAFE SA in the undertaking of specified activities) to pay all or specified rates, duties, taxes and imposts, and to assume other liabilities and duties (either generally or of a specified kind) as would apply under the law of the State if TAFE SA were not an instrumentality of the Crown.
- (2) The Treasurer may require TAFE SA to pay to the Treasurer, for the credit of the Consolidated Account, such amounts as the Treasurer from time to time determines to be equivalent in effect to either (or both) of the following:
  - (a) income tax and any other taxes or imposts that TAFE SA does not pay to the Commonwealth but would be liable to pay under the law of the Commonwealth if it were constituted and organised in such manner as the Treasurer determines to be appropriate for the purposes of this subsection as a public company or group of public companies carrying on the business carried on by TAFE SA;
  - (b) rates that TAFE SA would be liable to pay to a council if TAFE SA were not an instrumentality of the Crown.
- (3) Amounts determined by the Treasurer to be payable under subsection (2) must be paid by TAFE SA at the times and in the manner determined by the Treasurer.

### **32—Dividends**

- (1) TAFE SA must, if so required by the Treasurer by notice in writing to TAFE SA at any time during a financial year, recommend by writing to the Treasurer that a specified interim dividend or specified interim dividends be paid by TAFE SA for that financial year, or that no such dividend or dividends be paid by TAFE SA, as TAFE SA considers appropriate.

- (2) The Treasurer may, after consultation with the Minister, by notice in writing to TAFE SA—
  - (a) approve a recommendation of TAFE SA under subsection (1); or
  - (b) determine that an interim dividend or interim dividends specified by the Treasurer be paid, or that no interim dividend be paid,as the Treasurer considers appropriate.
- (3) If the Treasurer approves a recommendation or determines under this section that a dividend or interim dividend or dividends be paid by TAFE SA, the dividend or interim dividend or dividends must be paid by TAFE SA to the Treasurer for the credit of the Consolidated Account in the manner and at the time or times determined by the Treasurer after consultation with TAFE SA.

## **Division 9—Delegation**

### **33—Delegation**

- (1) The Minister, the Board or the Chief Executive may delegate a function under this Act—
  - (a) to a specified person or body; or
  - (b) to a person occupying a specified office or position.
- (2) A delegation under this section—
  - (a) must be by instrument in writing; and
  - (b) may be absolute or made subject to conditions; and
  - (c) is revocable at will; and
  - (d) does not limit the power of the Minister, the Board or Chief Executive (as the case may be) to act in any matter; and
  - (e) may, if the instrument of delegation so provides, be further delegated.

## **Part 3—Miscellaneous**

### **34—Regulations**

- (1) The Governor may make such regulations as are contemplated by this Act, or necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
  - (a) provide for the terms and conditions on which employees are employed, their rights to leave of absence and any other privileges, their rights on retirement from employment and any other matter affecting their employment (and in doing so may relate to circumstances that occurred before the commencement of this section); and
  - (b) be of general, limited or varied application according to the matter, circumstances or any other specified factor to which they are expressed to apply; and

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- (c) make provisions of a saving or transitional nature consequent on the enactment of this Act; and
  - (d) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister, TAFE SA or the Chief Executive.
- (3) Before a regulation is made under subsection (2)(a), the Minister must undertake consultation (in such manner as the Minister thinks fit) with employees who, in the opinion of the Minister, would be directly affected by the regulation, or persons who, in the opinion of the Minister, represent such employees.
  - (4) A provision of a regulation made under subsection (2)(c) may, if the regulation so provides, take effect from the commencement of this Act or from a later day.
  - (5) To the extent to which a provision takes effect under subsection (4) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—
    - (a) decreasing the person's rights; or
    - (b) imposing liabilities on the person.

### **35—Review of Act**

- (1) The Minister must cause a review of the operation of this Act relating to the matters referred to in subsection (2) to be conducted and a report on the review to be prepared and submitted to the Minister.
- (2) The review must consider the changes made in relation to TAFE SA as a result of the enactment of this Act and may consider any other matter the Minister considers appropriate.
- (3) The review and report must be completed as soon as reasonably practicable after the third anniversary of the commencement of this Act.
- (4) The Minister must cause a copy of the report submitted under subsection (1) to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

## **Schedule 1—Repeal, amendments, saving and transitional provisions**

### **Part 1—Repeal of Act**

#### **1—Repeal of *TAFE SA Act 2012***

The *TAFE SA Act 2012* is repealed.

## **Part 2—Amendment of *Education and Children's Services Act 2019***

### **2—Amendment of section 110—Interruption of service where officer leaves teaching service**

Section 110(8), definition of *prescribed employment*, (f)—delete "*TAFE SA Act 2012*" and substitute:

*TAFE SA Act 2025*

### **3—Amendment of section 113—Entitlement of persons transferred to the teaching service**

Section 113(7), definition of *prescribed employment*, (f)—delete "*TAFE SA Act 2012*" and substitute:

*TAFE SA Act 2025*

## **Part 3—Amendment of *South Australian Skills Act 2008***

### **4—Amendment of section 23—Staff**

Section 23—delete "*TAFE SA Act 2012*" wherever occurring and substitute in each case:

*TAFE SA Act 2025*

## **Part 4—Saving and transitional provisions**

### **5—Interpretation**

In this Part—

*repealed Act* means the *TAFE SA Act 2012*.

### **6—Continuation of Board**

- (1) The board of directors established under section 7 of the repealed Act continues in existence and will, on and after the commencement of this clause, be taken to be the Board established under section 9.
- (2) Subject to this Act, a person holding office as a director under section 8 of the repealed Act immediately before the commencement of this clause will, on the commencement of this clause—
  - (a) continue to hold office as a director on the same conditions and for the remainder of their term of office; and
  - (b) be taken to have been appointed under section 9 of this Act.
- (3) The following provisions apply in relation to a prescribed appointment of a director:
  - (a) the requirements relating to the nomination of members set out in section 9(4) and (5) of this Act will be taken not to apply in relation to the prescribed appointment;
  - (b) section 7(3) and (4) of the repealed Act will be taken to apply to the prescribed appointment as if that section had not been repealed;

- (c) the prescribed appointment will be taken to be an appointment under section 9 of this Act,

(however, to avoid doubt, nothing in this subclause applies in relation to any subsequent appointment or reappointment of the person).

- (4) In this clause—

*prescribed appointment*, of a director, means—

- (a) the reappointment of a person holding office as a director under section 8 of the repealed Act immediately before the commencement of this clause (being a director whose term of office expires on 14 October 2026); or
- (b) the appointment of a member before 14 October 2027 to fill a casual vacancy occurring in the office of a director,

and, to avoid doubt, includes the nomination of a person in respect of such an appointment.

## 7—Chief Executive

The person holding office as chief executive of TAFE SA under section 12 of the repealed Act immediately before the commencement of this clause continues to hold office on and after that commencement as if the person was appointed under section 16.

## 8—Staff

- (1) A person employed by the chief executive under section 14 of the repealed Act as in force immediately before the commencement of this clause is transferred to the employment of the Chief Executive of TAFE SA on terms and conditions of employment that are the same as the terms and conditions of appointment as applied to the person immediately before that commencement, subject to this Act.
- (2) A transfer of a person under this clause does not constitute a breach of the person's contract of employment or termination of the person's employment, or affect the continuity of the person's employment for any purpose.
- (3) An application made by a prescribed employee to the Chief Executive under a provision of the repealed Act as in force immediately before the commencement of this clause will, on that commencement, be taken to have been made under the corresponding provision of this Act.
- (4) Arrangements entered into by the Chief Executive contemplated by section 5 of the *Superannuation Act 1988* with respect to an employee of the Chief Executive who is a contributor under that Act that are in force before the commencement of this clause will, on and after that commencement, continue in force.

## 9—Student misconduct

The rules, policies and procedures of TAFE SA relating to student misconduct as in force immediately before the commencement of this clause will, on and after that commencement, continue to apply to govern the ongoing management and resolution by TAFE SA of any unresolved complaints or allegations of student misconduct at TAFE SA.

## **10—Business documents**

A document or information provided by TAFE SA to the Minister for the purposes of a provision of the *Public Corporations Act 1993* before the commencement of this clause (including the charter prepared for the purposes of section 12 of that Act as in force immediately before the commencement of this clause) may, on and after that commencement, be taken to satisfy 1 or any of the requirements under section 25 in relation to the business plan.

## **11—By-laws**

The by-laws made under section 17 of the repealed Act and in force immediately before the commencement of this clause will, on and after that commencement, continue in force as if they were made under section 20.

## 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](http://www.legislation.sa.gov.au).

### Principal Act

Year	No	Title	Assent	Commencement
2025	62	<i>TAFE SA Act 2025</i>	27.11.2025	1.3.2026 ( <i>Gazette 12.2.2026 p244</i> )