



ANNO TRICESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1989

No. 26 of 1989

Act to amend the Education Act, 1972.

[Assented to 27 April 1989]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Education Act Amendment Act, 1989*.
- (2) The *Education Act, 1972*, is referred to in this Act as “the principal Act”.

Commencement

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

The Teachers Appeal Board

3. Section 45 of the principal Act is amended—

(a) by striking out paragraph (a) of subsection (2) and the passage in that subsection preceding that paragraph and substituting the following passage and paragraph:

(2) The Appeal Board is to consist of—

(a) such presiding members as may be nominated from time to time by the President of the Industrial Court of South Australia from amongst the members of the Industrial Court for the hearing and determination of appeals to the Appeal Board;

(b) by striking out paragraph (a) of subsection (3) and substituting the following paragraph:

(a) a member of the Industrial Court nominated by the President of the Industrial Court to be the presiding member of the Appeal Board;

(c) by striking out from paragraph (c) of subsection (3) “chairman” and substituting “presiding member”;

(d) by striking out paragraph (a) of subsection (4) and substituting the following paragraph:

- (a) a member of the Industrial Court nominated by the President of the Industrial Court to be the presiding member of the Appeal Board;;
- (e) by striking out from paragraph (c) of subsection (4) "chairman" and substituting "presiding member";

and

- (f) by inserting after subsection (4) the following subsections:

(5) The Appeal Board, separately constituted under this section, may sit simultaneously to hear separate appeals.

- (6) In this section—

"member of the Industrial Court" means—

- (a) the President of the Industrial Court of South Australia;
- (b) a Deputy President of the Industrial Court of South Australia;
- or
- (c) an Industrial Magistrate.

Terms and conditions of office of appointed members

4. Section 46 of the principal Act is amended by inserting after subsection (5) the following subsection:

(6) This section does not apply in relation to presiding members of the Appeal Board.

Appeals against recommendations

5. Section 53 of the principal Act is amended by striking out from subsection (2) "in accordance with a promotion list compiled under the regulations" and substituting "by an appointment in an acting capacity for a period not exceeding 12 months".

Additional rights of appeal

6. Section 54 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) In addition to the rights of appeal otherwise conferred on an officer by or under this Act, an officer may appeal to the Appeal Board against any administrative action or decision affecting the officer in relation to which a right of appeal is conferred by the regulations.

Registration of non-Government schools

7. Section 72g of the principal Act is amended by striking out paragraph (b) of subsection (2) and substituting the following paragraph:

(b) be accompanied by the prescribed fee.

Insertion of Part V, Division IIA

8. The following division is inserted after Division II of Part V of the principal Act:

DIVISION IIA—APPROVAL TO ENROL FULL FEE PAYING OVERSEAS STUDENTS**Interpretation**

72i. For the purposes of this Part, a student is to be regarded as a full fee paying overseas student if—

(a) the student holds a temporary entry permit in force under the *Migration Act 1958* of the Commonwealth;

and

(b) the Commonwealth and the State disregard the student (or a class of students to which that student belongs) when calculating the amount of any assistance to the school at which the student is enrolled.

Approval

72ia. (1) The governing authority of a non-Government school, or proposed non-Government school, or a person authorized by the governing authority may apply to the Board for approval of the school for the enrolment of full fee paying overseas students.

(2) An application for approval under this section—

(a) must be made in a manner and form determined by the Board;

and

(b) must be accompanied by the prescribed fee.

(3) Where the Board is satisfied on application under this section that—

(a) the school has sufficient financial resources to enable it to provide satisfactory services to full fee paying overseas students;

and

(b) the school has made suitable arrangements to ensure compliance with the code of conduct approved by the Minister under section 72ib,

the Board must, by endorsement of the registration of the school, approve the school for the enrolment of full fee paying overseas students for such period as it thinks fit.

(4) The Board may impose such conditions on the registration of a non-Government school that is approved under this section as it thinks necessary—

(a) to ensure that the school continues to meet the criteria for approval;

(b) to ensure that adequate records are kept in relation to full fee paying overseas students.

(5) The Board may, at any time on the application of the school concerned, vary or revoke a condition imposed on the registration of a school under subsection (4) or extend the period of approval.

(6) Where the Board decides—

(a) to refuse an application under this section;

(b) to grant an application subject to conditions;

or

(c) to limit the period of approval,

it must, within one month after making that decision, inform the applicant in writing of its reasons for making the decision.

(7) An application for approval under this section may be dealt with at the same time as an application for registration under Division II.

Code of conduct

72ib. (1) The Minister may, by notice in the *Gazette*, approve a code of conduct for the purposes of this Part.

(2) A code of conduct approved by a notice under subsection (1) may consist of or incorporate, subject to any modifications specified in the notice, any specified document or part of a document, either as published by a specified body or authority at the time of approval of the code, or as so published from time to time.

(3) The Minister may, by subsequent notice in the *Gazette*, vary or revoke a notice under this section.

(4) The Minister must cause a copy of any code of conduct approved under this section (including any document or part of any document referred to in the code of conduct) to be made available for inspection by members of the public without charge.

Review of registration, power of cancellation, etc.

9. Section 72j of the principal Act is amended—

(a) by striking out “or” between paragraphs (a) and (b) of subsection (2);

(b) by inserting after paragraph (b) of subsection (2) the following word and paragraph:

or

(ba) the Board is satisfied, in relation to a school that is approved under Division IIA—

(i) that the school does not have sufficient financial resources to provide satisfactory services to full fee paying overseas students;

or

(ii) that the school has contravened or failed to comply with a provision of the code of conduct approved by the Minister under section 72ib,;

and

(c) by inserting after paragraph (e) of subsection (2) the following paragraph:

(ea) the Board may, in relation to a school that is approved under Division IIA, withdraw the approval and cancel the endorsement of registration recording the approval or limit or reduce the period of approval by directing that the approval will terminate at a time fixed in the notice,;

Insertion of s. 73

10. The following section is inserted after section 72p of the principal Act:

Furnishing information to Board

73. (1) The Board may, for the purpose of determining an application under Division II or IIA, require the applicant to furnish the Board with such further information as the Board may require.

(2) A person must not, in furnishing any information in an application under Division II or Division IIA or pursuant to a requirement of the Board under subsection (1), make a statement that is false or misleading in a material particular.

Penalty: \$1 000.

Regulations

11. Section 107 of the principal Act is amended by inserting after paragraph (s) of subsection (2) the following paragraphs:

- (sa) the constitution, powers, functions, authorities, duties or obligations of school councils or any other matter relating to school councils or their operations;
- (sb) conferring on the Minister power to determine any specified matter relating to the constitution of school councils, power to enlarge the functions of school councils or power to resolve disputes between head teachers and school councils;

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor