

Education (Further Amendment) Bill 1990

No.

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By Authority L. V. North, Government Printer Melbourne

LEGISLATIVE COUNCIL

Read 1° 15 May 1991

(Brought from the Legislative Assembly)

A BILL

for

An Act to amend the **Education Act 1958**, and for other purposes.

Education (Further Amendment) Act 1990

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purpose*

The purpose of this Act is to amend the **Education Act 1958**—

- (a) to provide for school councils to be able to sell school goods and retain the proceeds of sale; and
- (b) to enable overseas students to be charged fees for attending State schools; and
- (c) to make various amendments to the provisions about registered schools; and
- (d) to make other minor amendments to the **Education Act 1958**.

Section headings appear in bold italics and are not part of the Act (see **Interpretation of Legislation Act 1984**).

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

PART 2—DISPOSAL OF GOODS**3. Amendment of section 16** 5

In section 16 of the **Education Act 1958**—

(a) after “16” insert “(1)”; and

(b) at the end of the section insert—

“(2) Despite sub-section (1), a school council may sell equipment, goods or other similar personal property acquired for use in the school. 10

(3) If the proceeds from the sale of property under sub-section (1) are less than the amount determined by the Minister, the school council may keep those proceeds. 15

(4) If the proceeds from the sale of property are equal to or more than the amount determined by the Minister, the school council may keep those proceeds, if the person appointed by the Chief Executive has given approval to the school council to do so. 20

(5) A determination of the Minister under sub-section (3)—

(a) must be in writing; and

(b) may be varied or revoked by the Minister in writing. 25

(6) The Chief Executive may appoint a person to give approvals under sub-section (4).

(7) An approval—

(a) must be in writing; and 30

(b) must be given before the property is sold.”.

PART 3—OVERSEAS STUDENTS

4. *Insertion of new definition*

In section 3 (1) of the **Education Act 1958**, after the definition of “**Prescribed**” insert—

- 5 ‘ “**overseas student**” means any person, or the child of any person, who is not an Australian citizen or a permanent resident of Australia who enters Australia for the primary purpose of receiving education.’

10 **5. *Amendment of section 22***

In section 22 (2) of the **Education Act 1958**, after “**children**” insert “**who are not overseas students**”.

6. *Insertion of new sections 25A, 25B and 25C*

After section 25 of the **Education Act 1958**, insert—

15 **“25A. *Fees to be paid by overseas students***

- (1) An overseas student who attends a State school must pay a fee determined by the Minister for attending the school.
- (2) The Minister may determine—
- 20 (a) the amount of the fee; and
- (b) the period for which the fee is to be paid; and
- (c) the time at which the fee must be paid; and
- 25 (d) the person to whom the fee must be paid.
- (3) The determination may be made in respect of an overseas student or a class of overseas students and may be varied or revoked at any time.

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- (4) The Minister may exempt any overseas student or class of overseas students from having to pay the fee.

25B. Failure to pay the fee

- (1) An overseas student who does not pay the fee at the time determined by the Minister must be immediately excluded from the school. 5
- (2) A student who has been excluded from a school under sub-section (1) may apply to the Minister for permission to return to the school. 10
- (3) The Minister may permit the student to return to the school and in doing so may enter into any arrangement with the student as to the payment of fees that the Minister thinks fit.

25C. Delegation

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The Minister may, by instrument, delegate to any person or class of persons employed in the Ministry of Education or to any other officer or class of officers employed in the public service or teaching service any power of the Minister under sections 25A or 25B.”. 20

PART 4—REGISTERED SCHOOLS**7. Alteration of minimum age of students for registration purposes**

- (1) In section 42 (3) (c) of the **Education Act 1958** omit “of not less than six or more than eighteen years of age”. 25
- (2) After section 42 (3) of the **Education Act 1958** insert—
- “(4) In determining an enrolment for the purposes of sub-section (3) (c), the Board may take into account any pupils who are not less than 4½ and not more than 18 years of age, as well as pupils who are not less than 6 and not more than 18 years of age.”. 30

8. Insertion of new sections 42A, 42B and 42C

After section 42 of the Education Act 1958 insert—

“42A. Review of determination of year levels of registered schools

- 5 (1) The Board may review the determination of the year levels for which a secondary school is registered under section 42 (1A).
- 10 (2) The Board may reduce the year levels for which a secondary school is registered if the Board is satisfied that the average enrolment for year levels for which the school is registered is less than ten.

42B. Appeal against review of determination of year levels

- 15 (1) If the Board intends to reduce the number of year levels for which a school is registered, the Board must notify the proprietor or principal of that in writing.
- 20 (2) The proprietor or principal may appeal to the Minister against the intention to reduce year levels by giving a written notice of appeal to the Minister within 14 days of receiving the Board’s notification.
- (3) The Minister may allow or disallow the appeal.
- 25 (4) If the appeal is allowed, the Board must not proceed further with the reduction of year levels.
- (5) If the appeal is disallowed or no notice of appeal is given the Board may implement its intention to reduce the year levels.

42C. Offence to conduct a school which offers year levels for which school is not registered

30 A person must not conduct a school in which students are enrolled for year levels for which the school is not registered.

Penalty: 20 penalty units.”

9. Fee for registration to be prescribed

In section 48 (2) of the **Education Act 1958**, omit “a fee of \$200 which shall be paid to the Consolidated Fund” and insert “the fee prescribed by the regulations”.

10. Repeal of section 49 requirement to publish registers

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Section 49 of the **Education Act 1958** is repealed.

11. Insertion of new section 51A

After section 51 of the **Education Act 1958** insert—

“51A. Registered schools to comply with Part XI A of the Health Act 1958.

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Despite anything to the contrary in Part XI A of the **Health Act 1958**, that Part of that Act applies to—

- (a) any part of a premises or place on which a registered school is established where five or more children who are under the age of 4½ years are cared for educated or minded apart from their parents or guardians; and 15
- (b) any person who conducts or is concerned in the conduct of that part of that premises or place.” 20

12. Increase of penalties

In the **Education Act 1958**—

- (a) in section 43 (5), for “10 penalty units” substitute “20 penalty units”; and 25
- (b) in section 44 (1), for “10 penalty units” substitute “20 penalty units”; and
- (c) in section 46 (2), for “5 penalty units” substitute “10 penalty units”; and 30
- (d) in section 47 (4), for “1 penalty unit” substitute “2 penalty units”.

13. Insertion of new penalties

In section 44 of the **Education Act 1958**—

- (a) at the end of sub-section (2) **insert** “Penalty: 5 penalty units”; and
- 5 (a) at the end of sub-section (3) **insert** “Penalty: 5 penalty units”; and

14. Change of superceded references

In the **Education Act 1958**—

- 10 (a) in section 39 (2), for “, special or technical” **substitute** “or special”; and
- (b) in section 40 (a), for “, special or technical” **substitute** “or special”; and
- (c) in section 42 (3) (a) (iii), for “**Health Act 1958**” **substitute** “**Building Control Act 1981**”; and
- 15 (d) in section 44 (3), for “head teacher” **substitute** “Principal”; and
- (e) in section 45, for “head teacher” (wherever occurring) **substitute** “Principal”; and
- 20 (f) in section 46 (1) and (2), for “head teacher” **substitute** “Principal”; and
- (g) in section 47 (1) and (4), for “head teacher” **substitute** “Principal”.

