

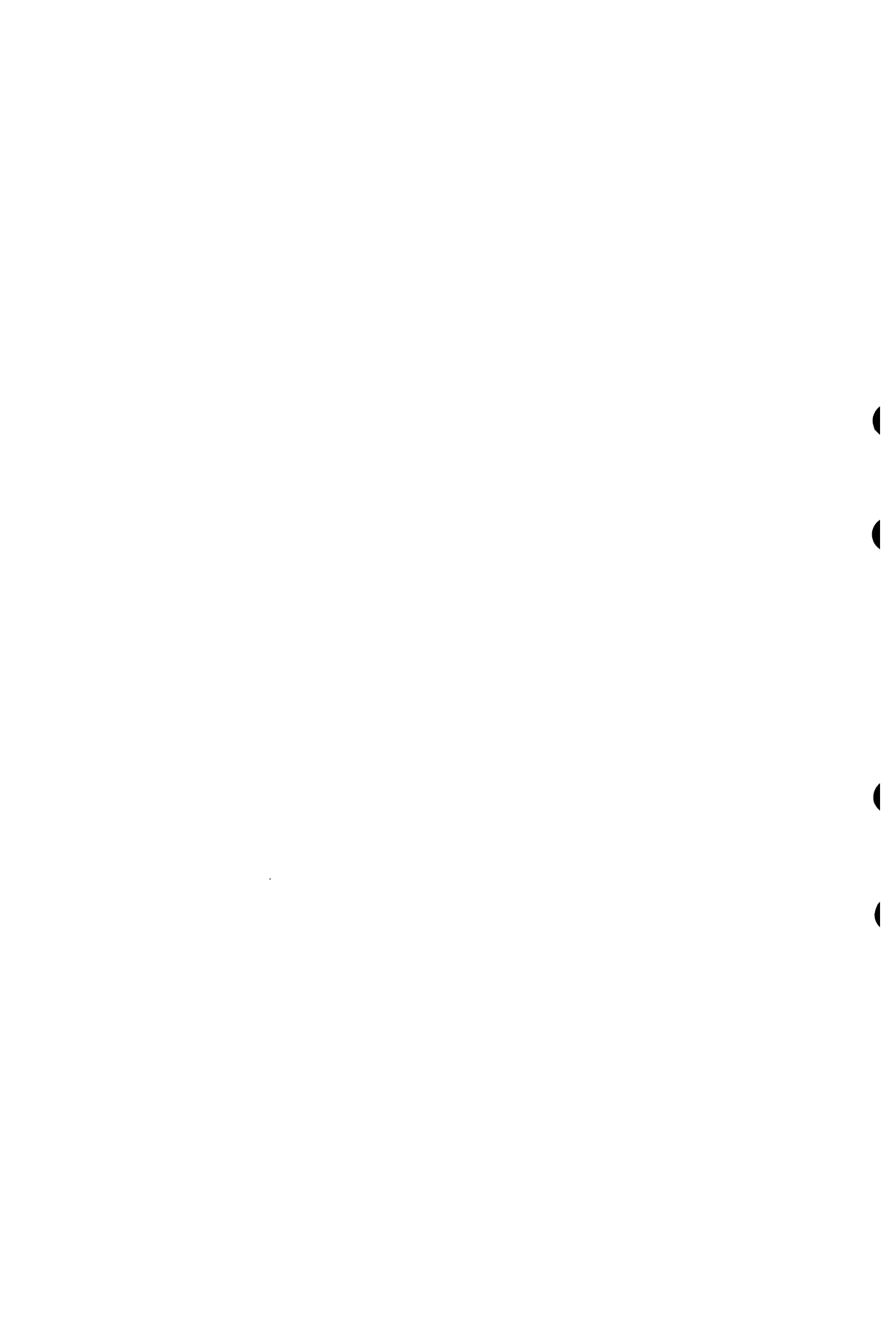
# Victorian Curriculum and Assessment Board Bill

No.

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# LEGISLATIVE COUNCIL

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Read 1° 22 April 1986

*(Brought from the Legislative Assembly)*

## A BILL

*for*

An Act to establish the Victorian Curriculum and Assessment Board to repeal the *Victorian Institute of Secondary Education Act 1976* and to amend the *Public Service Act 1974* and for other purposes.

### **Victorian Curriculum and Assessment Board Act 1986**

The Parliament of Victoria enacts as follows:

**Purpose.**

1. The purpose of this Act is to establish the Victorian Curriculum and Assessment Board.

**5 Commencement.**

2. This Act comes into operation on a day to be proclaimed.

**Definitions.**

3. In this Act—

10     **“Board”** means the Victorian Curriculum and Assessment Board established by this Act.

**“Member”** means a member of the Board and includes the chairperson.

**The Victorian Curriculum and Assessment Board.**

4. (1) There is a body corporate to be known as the “Victorian Curriculum and Assessment Board”.

(2) The Board—

- (a) has perpetual succession and a common seal; and 5
- (b) is capable in law of—
  - (i) suing and being sued in its corporate name; and
  - (ii) acquiring, holding, leasing, taking on lease, disposing of or exchanging real or personal property; and
  - (iii) doing or suffering all the acts or things that bodies corporate may by law do or suffer. 10

**Objective of the Board.**

5. The objective of the Board is to give everyone seeking to undertake studies leading to the award of the Victorian Certificate of Education access to education of the highest quality. 15

**Functions and powers of the Board.**

6. (1) The functions of the Board are to—

- (a) develop and implement policies which will lead to the achievement of its objective and in doing so—
  - (i) to carry out research which will assist in that development; and 20
  - (ii) to consult with persons interested in secondary education; and
- (b) provide procedures for the development of courses which are required to complete secondary education; and 25
- (c) accredit courses which have been so developed; and
- (d) conduct or supervise the conduct of the assessment of persons who take those courses; and
- (e) issue and award certificates recording the results of those assessments and the results of assessments done by other bodies in respect of secondary education credited or courses accredited by the Board; and 30
- (f) in conjunction with bodies carrying on similar functions outside Victoria, develop arrangements for the crediting of secondary education done outside Victoria in Victoria, and for the crediting of secondary education done in Victoria outside Victoria; and 35
- (g) accredit other courses which other bodies in Victoria or outside Victoria have developed or accredited or offer; and
- (h) give information and advice to people undertaking secondary education about that education and matters related to it; and 40

- 5 (i) arrange with employment and training bodies and post-secondary education bodies for the use of its certificate courses accredited by it or assessment supervised by it in selecting and preparing students for work or further training or study; and
- (j) give information, advice, counselling and training to any persons providing secondary education.
- 10 (2) The Board has power to do all things necessary for and incidental to the carrying out of its functions and achieving its objective including—
- (a) the power to collect fees; and
- (b) the power to borrow money or obtain deposits, advances or financial accommodation from any person; and
- 15 (c) the power to enter into contracts, agreements or arrangements; and
- (d) the power to publish and sell any information; and
- 20 (e) the power to apply for, obtain and hold industrial property rights (including patents, copyrights, trade marks and registered designs) and enter into agreements and arrangements for the use of those industrial property rights upon any terms and conditions the Board thinks fit.
- (3) Any major policy determination of the Board in relation to procedures or systems of evaluation or assessment of the ability and achievement of students is subject to the approval of the Minister.

25 **Members of the Board.**

7. (1) The Board has nineteen members of whom—
- (a) one is the chairperson; and
- (b) three are persons who in the opinion of the Minister have expertise in any one or more of the functions of the Board; and
- 30 (c) fifteen are persons who have any one or more of the following qualifications—
- (i) they are members of the public service of Victoria involved in education administration; or
- 35 (ii) in the opinion of the Minister, they are experienced in the provision of secondary education; or
- (iii) in the opinion of the Minister, they are experienced in the provision of post-secondary education; or
- (iv) in the opinion of the Minister, they are representatives of employers; or
- 40 (v) in the opinion of the Minister, they are representative of the general community interest in secondary education.

(2) The Minister is to appoint the members of the Board.

(3) The chairperson holds office on a full-time basis and for seven years or for the shorter term stated in the instrument of appointment.

(4) The members (other than the chairperson) hold office on a part-time basis and for four years or for the shorter term stated in the instrument of appointment. 5

(5) Subject to this Act the Minister may specify the terms and conditions of appointment of a member.

(6) The Minister may at any time remove a member from office.

(7) A member is eligible to be re-appointed to an office on the Board. 10

#### **The Executive.**

8. (1) There is a sub-committee of the Board to be known as the "Executive".

(2) The Executive has four members of whom— 15

(a) one is the chairperson of the Board; and

(b) three are the members of the Board appointed under section 7 (1) (b).

(3) A member of the Executive may be paid the remuneration and travelling and other allowances fixed by the Minister in addition to any other remuneration or allowances received by that member of the Executive in respect of another office created under this Act. 20

(4) The Board may repay to the employer of a member of the Executive any part of the remuneration paid by the employer to that member which is remuneration for time which was spent by that member in carrying out the duties of a member of the Executive. 25

#### **Acting members.**

9. (1) If a member is unable to perform the duties of the office of member the Minister may appoint another person to act in the place of that member for the period of that inability. 30

(2) If the office of a member becomes vacant the Minister may appoint a person to act in the place of the member who held that office until the end of the term for which the original member was appointed.

(3) A person appointed to act in the place of a member has all the powers and may perform all the duties of that member and is subject 35 to the same terms and conditions of office as that member.

**Terms and conditions of office.**

10. (1) A member may be paid the remuneration and travelling and other allowances fixed by the Minister.

5 (2) Unless otherwise expressly provided a member is not subject to the *Public Service Act 1974* in respect of that person's office as a member.

**Conduct of meetings.**

11. (1) The chairperson or in the absence of the chairperson the person appointed to act in the office of chairperson presides at any meeting of the Board.

10 (2) A majority of the members for the time being appointed constitute a quorum at any meeting of the Board.

(3) A question arising at a meeting of the Board is to be decided by a majority of votes of the members present and voting on that question and if there is an equality of votes the person presiding at the meeting has a second or casting vote.

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(4) An act or decision of the Board is not invalid because there has been—

- (a) an irregularity in or in connexion with the appointment of a member; or
- 20 (b) a vacancy in the membership of the Board including a vacancy arising from the failure to appoint an original member.

(5) The Board must hold at least six meetings in any one calendar year.

25 (6) In all other respects the Board may regulate its own procedure.

**Staff.**

12. (1) There are to be appointed any officers and employees that are necessary for the management and administration of the Board's affairs.

30 (2) The persons employed in the Board are to be employed subject to the *Public Service Act 1974*.

**Committees.**

13. (1) The Board may set up committees to advise the Board on the carrying out of its functions.

35 (2) Persons appointed by the Board to be members of committees may be paid the travelling and other allowances fixed by the Minister.

**Delegation.**

14. The Board may by instrument under its common seal delegate any one or more of its powers under this Act to a member or an officer of the Board other than this power of delegation.

**Victorian Curriculum and Assessment Board Fund. 5**

15. (1) The Board must establish and maintain a Fund to be called the Victorian Curriculum and Assessment Board Fund.

(2) There must be paid into the Fund—

- (a) any money paid to or collected by the Board under this Act; and 10
- (b) any money that the Board borrows under this Act; and
- (c) any income from the investment of any money credited to the Fund and the proceeds of the sale of any investment; and
- (d) all other money that the Board receives. 15

(3) There may be paid out of the Fund—

- (a) any payment which is authorized or required to be made or which is for or towards the costs and expenses of or incidental to the performance of the functions or the exercise of the powers of the Board; and 20
- (b) all money required for the repayment of borrowings by the Board and for the payment of interest payable in respect of the borrowings.

(4) The Board may invest any money standing to the credit of the Fund in any manner in which trust moneys may be invested by a trustee under the *Trustee Act 1958*. 25

**Accounts and records.**

16. (1) The Board must ensure that there are kept proper accounts and records of the transactions and affairs of the Board and any other records necessary to sufficiently explain the financial operations and financial position of the Board. 30

(2) The Board must do all things necessary to do each of the following:

- (a) Ensure that all money payable to it is properly collected;
- (b) Ensure that all money expended in its name is properly expended and properly authorized; 35
- (c) Ensure that adequate control is maintained over assets owned by it or in its custody;
- (d) Ensure that all liabilities incurred in its name are properly authorized; 40



- (e) Ensure efficiency and economy of operations and avoidance of waste and extravagance;
- (f) Develop and maintain an adequate budgeting and accounting system;
- 5 (g) Develop and maintain an adequate internal audit system.

**Annual report.**

17. (1) The Board must in respect of each financial year prepare an annual report containing—
- 10 (a) a report of its operations during the financial year; and
  - (b) financial statements for the financial year—and submit the report to the Minister not later than 30 September next following the financial year.
- (2) The report of operations referred to in sub-section (1) (a) must—
- 15 (a) be prepared in a form and contain information determined by the Board to be appropriate; and
  - (b) contain any further information required by the Minister.
- (3) The financial statements referred to in sub-section (1) (b) must—
- 20 (a) contain the information determined by the Treasurer to be appropriate; and
  - (b) be prepared in the manner and form approved by the Treasurer; and
  - (c) present fairly the results of the financial transactions of the Board during the financial year to which they relate and the financial position of the Board as at the end of that year; and
  - 25 (d) be signed by the principal accounting officer (by whatever name called) of the Board and by the chairperson and another member who must—
- 30 (i) state whether in their opinion the financial statements present fairly the results of the financial transactions of the Board during the financial year to which they relate and whether they sufficiently explain the financial position of the Board as at the end of the financial year; and
  - 35 (ii) state whether at the date of signing the financial statements they were aware of any circumstances that render any particulars included in the statements misleading or inaccurate and if so, particulars of the circumstances; and
  - 40 (e) be audited as required by section 19.
- (4) The Minister must cause each annual report submitted to the Minister under this section to be laid before the Legislative Council and the Legislative Assembly before the end of the seventh sitting day

of the Legislative Council or the Legislative Assembly, as the case may be, after the report has been received by the Minister.

- (5) If the Board fails to submit the annual report to the Minister—
- (a) if an extension has not been granted under section 19—by 30 September in any year; or
  - (b) if an extension has been granted—by the date to which the extension was granted—

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the Minister must report or cause to be reported that failure and the reasons for the failure to each House of the Parliament.

- (6) The financial year of the Board is the year ending on 30 June.

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#### **Extension of time for submitting annual report.**

18. (1) The Board may apply in writing to the Minister for an extension of the date by which an annual report is to be submitted to the Minister.

(2) The Minister may in writing grant to the Board an extension to such date as the Minister determines.

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(3) The Minister must advise or cause advice to be given to each House of Parliament of each extension granted under this section and the reasons for the extension.

#### **Audit.**

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19. (1) The financial statements referred to in section 17 must be audited by the Auditor-General who has for that purpose all the powers relating to the audit of the public accounts conferred on the Auditor-General by any law relating to the audit of the public accounts.

(2) Without limiting the powers conferred on the Auditor-General under this section, the Auditor-General and each officer of the Auditor-General—

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(a) has right of access at all times to the books of the Board; and

(b) may require from an officer or employee of the Board the information, assistance and explanations necessary for the carrying out of the duties of the Auditor-General in relation to the audit.

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(3) The Board must pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of an audit by the Auditor-General under this section.

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#### **Victorian Certificate of Education.**

20. (1) The certificate awarded by the Board which certifies the completion of secondary education shall be called the Victorian Certificate of Education.

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(2) The Board may cancel or alter a certificate if the person to whom the certificate has been issued obtained or attempted to obtain that certificate by fraud or by illegal or unfair means.

**Information.**

5       21. (1) The Board must not give information of a personal nature which refers to an individual student to any other person without the express approval of that student.

10       (2) The Board may ask any public authority organization institution or body the function or purpose of which is related to the provision of education in Victoria to give the Board any information the Board reasonably requires to carry out its functions and that authority organization institution or body must comply with that request as far as it is able.

**Immunity from suit.**

15       22. No matter or thing done by any member of the Board or a committee in good faith in the exercise or purported exercise of any power or duty conferred or imposed on the Board or a committee or any member of the Board or a committee subjects the member personally to any action liability claim or demand.

20       **Regulations and Orders in Council.**

23. (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

25       (2) Fees for the conduct of examinations by the Board may be fixed by Order of the Governor in Council published in the *Government Gazette*.

**Transitional provisions.**

24. (1) On and from the commencement day—  
30       (a) the Board is the successor in law of the Institute; and  
      (b) all acts matters and things made done or authorized by or in relation to the Institute before that day are deemed to have been made done or authorized by or in relation to the Board and continue to have the same effect after that day as they had before that day; and  
35       (c) any proceedings begun by or against the Institute before that day may be continued by or against the Board.

40       (2) On the commencement day the person who was the Chairman of the Institute immediately before that day becomes the chairperson of the Board and is to hold the new office upon the same terms and conditions upon which that person held the former office and for the

remainder of the period for which that person was appointed to the former office.

(3) A person who was immediately before the commencement day an officer or employee of the Institute is entitled to be employed under the *Public Service Act 1974* with a classification and emolument and conditions of employment corresponding with or higher than those which that person had in the position that person occupied in the Institute immediately before that day.

(4) In spite of any provision to the contrary in this Act the Board may issue certificates which certify the completion of secondary education in the same manner as they were issued by the Institute until the time specified by the Minister.

(5) In this section—

“**Commencement day**” means the day on which this Act comes into operation.

“**Institute**” means the Victorian Institute of Secondary Education established under the *Victorian Institute of Secondary Education Act 1976*.

#### **Repeals and amendments.**

25. (1) The *Victorian Institute of Secondary Education Act 1976* is repealed.

(2) In Schedule Two to the *Public Service Act 1974*—

(a) in Column Three after “Office of the Technical and Further Education Board” insert “Office of the Victorian Curriculum and Assessment Board”; and

(b) in Column Four after “Chairman, Technical and Further Education” insert “Chairperson, Victorian Curriculum and Assessment Board”.

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