



Western Australia

# **School Curriculum and Standards Authority Act 1997**

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# School Curriculum and Standards Authority Act 1997

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**Defined terms**

Western Australia

## **School Curriculum and Standards Authority Act 1997**

**An Act to establish a State agency with functions relating to the development and accreditation of courses and the standards, assessment and certification of student achievement, to provide for a database relating to participation in education, training or employment by students during their school years, and for related purposes.**

*[Long title inserted by No. 37 of 2011 s. 4.]*

## **Part 1 — Preliminary**

**1. Short title**

This Act may be cited as the *School Curriculum and Standards Authority Act 1997*<sup>1</sup>.

*[Section 1 amended by No. 37 of 2011 s. 5.]*

**2. Commencement**

This Act comes into operation on such day as is fixed by proclamation<sup>1</sup>.

**3. Terms used**

In this Act unless the contrary intention appears —

***advisory committee*** means the Curriculum and Assessment Committee or the Standards Committee;

***assessment*** includes examination;

***Authority*** means the School Curriculum and Standards Authority established by section 5;

***Board*** means the governing body of the Authority referred to in section 6;

***chairperson*** means the chairperson of the Board;

***chief executive officer*** means the person appointed as such for the purposes of section 20;

***committee*** means an advisory committee or a committee appointed under section 7F;

***community kindergarten*** means a community kindergarten registered under the School Education Act Part 5;

***compulsory education period*** has the meaning given in the School Education Act section 6(1);

***course*** means a course of study, subject or syllabus;

***Curriculum and Assessment Committee*** means the committee established under section 7D;



**Education Department** means the department referred to in section 228 of the School Education Act;

**education provider** means —

- (a) a governing body; and
- (b) in relation to a student, a parent of the student who is registered under the School Education Act as the student's home educator;

**governing body** means —

- (a) in relation to a government school as defined in the School Education Act, the chief executive officer of the Education Department; and
- (b) in relation to a non-government school as defined in the School Education Act, means the governing body of that school under that Act;

*[(c) deleted]*

**home education**, in relation to a student, means instruction provided by a parent who is registered under the School Education Act as the student's home educator;

**member** means a member of the Board and includes a person acting under Schedule 1 clause 4;

**member of staff** means —

- (a) an officer referred to in section 21(1); and
- (b) a person referred to in section 21(2); and
- (c) a person engaged or appointed by the Authority under section 100 of the *Public Sector Management Act 1994*; and
- (d) a person whose services are used under section 21(6) or 22;

**school** means a school as defined in the School Education Act or a community kindergarten;

**School Education Act** means the *School Education Act 1999*;

***school system*** means a school system that is declared to be a recognised school system under the School Education Act section 169;

***school years*** includes the pre-compulsory education period as defined in the School Education Act section 5;

***Standards Committee*** means the committee established under section 7B;

***standards of student achievement*** means the standards of student achievement that are expected to be attained at designated stages in a course or in the compulsory education period;

***student*** means a student enrolled in a school or receiving home education;

***vocational education and training*** has the same meaning as in the *Vocational Education and Training Act 1996*.

*[Section 3 amended by No. 36 of 1999 s. 247; No. 22 of 2005 s. 43; No. 37 of 2011 s. 6 and 53(1); No. 46 of 2012 s. 14; No. 28 of 2014 s. 37.]*

#### **4. Objects of Act**

The main objects of this Act are —

- (a) to establish the School Curriculum and Standards Authority; and
- (b) to provide for standards of student achievement and for the assessment and certification of student achievement according to those standards; and
- (c) to provide for the development of an outline of curriculum and assessment in schools that, taking account of the needs of students, sets out the knowledge, understanding, skills, values and attitudes that students are expected to acquire and guidelines for the assessment of student achievement; and

- (d) to provide for the development and accreditation of courses for schooling; and
- (e) to provide for the maintenance of a database of information relating to —
  - (i) the participation by students during their school years in education, training or employment as provided for by the School Education Act; and
  - (ii) the achievements of students during those years; and
  - (iii) records of assessment in respect of students.

*[Section 4 inserted by No. 37 of 2011 s. 7.]*

**Part 2 — The School Curriculum and Standards Authority and committees**

*[Heading inserted by No. 37 of 2011 s. 8.]*

**Division 1 — School Curriculum and Standards Authority**

*[Heading inserted by No. 37 of 2011 s. 8.]*

**5. Authority established; status etc. of Authority**

- (1) A body called the School Curriculum and Standards Authority is established.
- (2) The Authority is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Authority in its corporate name.
- (4) The Authority is an agent of the State and has the status, immunities and privileges of the State.

*[Section 5 inserted by No. 37 of 2011 s. 9.]*

**6. Board of Authority**

- (1) The Authority is to have a governing body (the **Board**).
- (2) The Board, in the name of the Authority, is to perform the functions of the Authority under this Act or any other written law.

*[Section 6 inserted by No. 37 of 2011 s. 9.]*

**7A. Board, members of**

- (1) The Minister is to appoint 7 people to be the members of the Board.
- (2) A person who is the chief executive officer or a member of staff is not eligible to be appointed as a member of the Board.

- (3) The Minister is to designate one of the members to be the chairperson.
- (4) The Minister is to ensure that the members of the Board have, between them, the knowledge, experience and expertise needed to enable the Authority's functions under this Act to be performed effectively.

*[Section 7A inserted by No. 37 of 2011 s. 9.]*

### **Division 2 — Committees**

*[Heading inserted by No. 37 of 2011 s. 9.]*

#### **7B. Standards Committee established; members of**

- (1) A committee called the Standards Committee is established.
- (2) The Standards Committee is to consist of —
  - (a) one person who is a member of, and appointed by, the Board; and
  - (b) 4 people appointed by the Board, with the approval of the Minister, who have between them, in the opinion of the Board, qualifications, experience and expertise in the development and measurement of standards of student achievement.
- (3) A person who is the chief executive officer or a member of staff is not eligible to be a member of the Standards Committee.
- (4) The person appointed in accordance with subsection (2)(a) is the chairperson of the Standards Committee.
- (5) A member of the Standards Committee holds office for the term determined by the Board and is eligible for reappointment.

*[Section 7B inserted by No. 37 of 2011 s. 9.]*

#### **7C. Standards Committee, functions of**

- (1) The function of the Standards Committee is to provide advice to the Board in relation to —

**School Curriculum and Standards Authority Act 1997**

**Part 2** The School Curriculum and Standards Authority and committees

**Division 2** Committees

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- (a) the functions of the Authority referred to in section 9(1)(j) to (o); and
  - (b) any other matter on which the Board requests the Standards Committee to provide advice.
- (2) To the extent that the procedures of the Standards Committee are not prescribed by the regulations, and subject to any direction given to it by the Board, the Standards Committee may determine its own procedures.

*[Section 7C inserted by No. 37 of 2011 s. 9.]*

**7D. Curriculum and Assessment Committee established; members of**

- (1) A committee called the Curriculum and Assessment Committee is established.
- (2) The Curriculum and Assessment Committee is to consist of —
  - (a) one person who is a member of, and appointed by, the Board; and
  - (b) 12 people appointed by the Board, with the approval of the Minister, who have between them, in the opinion of the Board, qualifications, experience and expertise in —
    - (i) the development and implementation of courses in government schools or non-government schools, as defined in the School Education Act; and
    - (ii) the options for employment or further study available to students leaving secondary school.
- (3) A person who is the chief executive officer or a member of staff is not eligible to be a member of the Curriculum and Assessment Committee.
- (4) The person appointed in accordance with subsection (2)(a) is the chairperson of the Curriculum and Assessment Committee.

- (5) A member of the Curriculum and Assessment Committee holds office for the term determined by the Board and is eligible for reappointment.

*[Section 7D inserted by No. 37 of 2011 s. 9.]*

**7E. Curriculum and Assessment Committee, functions of**

- (1) The function of the Curriculum and Assessment Committee is to provide advice to the Board in relation to —
- (a) the functions of the Authority referred to in section 9(1)(a) to (d) and (f) to (i); and
  - (b) any other matter on which the Board requests the Curriculum and Assessment Committee to provide advice.
- (2) To the extent that the procedures of the Curriculum and Assessment Committee are not prescribed by the regulations, and subject to any direction given to it by the Board, the Curriculum and Assessment Committee may determine its own procedures.

*[Section 7E inserted by No. 37 of 2011 s. 9.]*

**7F. Other committees**

- (1) The Board —
- (a) may appoint committees to assist the Board in relation to the performance of the Authority's functions; and
  - (b) may discharge or alter any committee so appointed.
- (2) A committee appointed under this section may consist of or include people who are not members of the Board.
- (3) The chief executive officer is not eligible to be a member of a committee appointed under this section.
- (4) Subject to any direction given to it by the Board, a committee appointed under this section may determine its own procedures.

*[Section 7F inserted by No. 37 of 2011 s. 9.]*

**7G. Support services for committees**

The Authority is to provide a committee with any clerical or other support services that the Authority determines are appropriate.

*[Section 7G inserted by No. 37 of 2011 s. 9.]*

**Division 3 — General**

*[Heading inserted by No. 37 of 2011 s. 10.]*

**7. Provisions about Board (Sch. 1)**

Schedule 1 has effect with respect to the Board and its members.

*[Section 7 amended by No. 37 of 2011 s. 11.]*

**8A. CEO or representative may attend meetings of Board and committees**

- (1) Unless the Board or committee, as the case requires —
  - (a) determines otherwise in respect of a particular meeting; and
  - (b) informs the chief executive officer or member of staff of the determination before the meeting is held,

the chief executive officer, or a member of staff representing the chief executive officer, may attend any meeting of the Board or a committee and, subject to subsection (2), may take part in the consideration and discussion of any matter before a meeting, but cannot vote on any matter.

- (2) If so requested by the Board or a committee in relation to a particular matter, the chief executive officer, or a member of staff representing the chief executive officer, is not to attend a meeting while the matter is before the meeting.

*[Section 8A inserted by No. 37 of 2011 s. 12.]*



**8. Members of Board and committees, remuneration of**

A member of the Board or a committee is to be paid such remuneration and travelling and other allowances as are determined in his or her case by the Minister on the recommendation of the Public Sector Commissioner.

*[Section 8 amended by No. 39 of 2010 s. 89; No. 37 of 2011 s. 13.]*

### **Part 3 — Functions and powers**

#### **9. Functions of Authority**

- (1) The functions of the Authority are —
- (a) to establish an outline of curriculum and assessment in schools; and
  - (b) to issue guidelines for the development of courses and the assessment of student achievement in those courses; and
  - (c) to develop courses, or to cause courses to be developed, in accordance with the guidelines issued under paragraph (b); and
  - (d) to evaluate and, where appropriate, accredit courses developed by the Authority or other persons in accordance with the guidelines issued under paragraph (b); and
  - (e) to recognise either wholly or in part or with modification —
    - (i) courses; and
    - (ii) the assessment of student achievement; and
    - (iii) the standards of student achievement that apply to that assessment,that are —
    - (iv) the subject of agreements or arrangements made between the State and the Commonwealth (whether or not those agreements or arrangements involve another State or a Territory); or
    - (v) otherwise considered appropriate by the Authority;
- and

- (f) to determine courses —
  - (i) recognised or accredited by the Authority; or
  - (ii) otherwise considered by the Authority to be appropriate for the purposes of this paragraph,  
in which students may be assessed, or caused to be assessed, by the Authority, whether for the purposes of certification or otherwise; and
- (g) to establish the minimum requirements for graduation from secondary school and for the issue of a certificate of student achievement; and
- (h) for the purposes of graduation from secondary school and the issue of a certificate of student achievement, to maintain a register of student achievements in courses and activities that are considered by the Authority to be relevant to those purposes and are —
  - (i) recognised or accredited by the Authority or by bodies other than the Authority; or
  - (ii) otherwise considered by the Authority to be appropriate for those purposes;and
- (i) to evaluate and if appropriate recognise, for the purposes of certification or otherwise, the achievement of students, whether that achievement is attained in the State or elsewhere; and
- (j) to establish the standards of student achievement and other requirements that apply to the assessment of student achievement made, or caused to be made, by the Authority; and
- (k) to determine the eligibility of students and other people in relation to assessments made, or caused to be made, by the Authority; and
- (l) to assess student achievement, or cause student achievement to be assessed, at the times determined by the Authority; and

- (m) to provide, at the times and in the manner determined by the Authority, the results of, and reports on, the assessment of student achievement made, caused to be made or recognised by the Authority to governing bodies, principals of schools, students and parents of students; and
  - (n) to the extent determined by the Authority, to provide for the comparability of assessments of student achievement in the compulsory education period that are made, caused to be made or recognised by the Authority; and
  - (o) to consult with universities, and persons and bodies having functions relating to vocational education and training, with respect to standards of student achievement and other requirements and procedures for admission to university and vocational education and training, and to review from time to time the effects of those standards, requirements and procedures; and
  - (p) to provide information to universities, and persons and bodies having functions relating to vocational education and training, on the achievement of students seeking admission to university or to vocational education and training; and
  - (q) to establish, determine the criteria for, and administer exhibitions and awards to be granted in recognition of student achievement.
- (2) The Authority has any other function given to it under this Act or another written law.
- (3) The Authority is to ensure that —
- (a) each school receives free of charge a copy of the most recent outline of curriculum and assessment in schools established by the Authority; and
  - (b) that outline of curriculum and assessment in schools is made available to the public in any manner the Authority thinks fit.

- (4) The Authority is to ensure that decisions of the Authority made in the performance of its functions under subsection (1) are notified to —
- (a) education providers to whom or which the decisions are relevant; and
  - (b) any other person or body to whom or which the Authority considers the decisions should be notified.
- (5) Without limiting subsection (4), the Authority may comply with that subsection by publishing in the *Gazette*, or in another manner determined by the Authority, a notice of —
- (a) a decision to which subsection (4) applies; and
  - (b) a variation or revocation of a decision of which notice is published under this subsection.

*[Section 9 inserted by No. 37 of 2011 s. 14.]*

**10. Advisory function of Authority**

It is a function of the Authority to advise the Minister —

- (a) on matters arising under this Act; and
- (b) on any agreements or arrangements made, or proposed to be made, between the State and the Commonwealth (whether or not those agreements or arrangements involve another State or a Territory) that relate to any of the Authority's other functions.

*[Section 10 inserted by No. 37 of 2011 s. 14.]*

**11. Draft reports on standards of student achievement, preparation of etc.**

- (1) The Authority may prepare reports on the standards of student achievement attained in schools in the State.
- (2) A report under subsection (1) is to be prepared in draft form (a *draft report*).

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- (3) The Authority —
- (a) is to give a copy of a draft report to any governing body that the Authority considers likely to want to make submissions to the Authority in relation to the report; and
  - (b) is to notify the governing body that it has a specified period (of not less than 28 days) within which it may make written submissions to the Authority in relation to the report.
- (4) The governing body may make written submissions to the Authority in relation to the draft report within the period specified under subsection (3)(b).
- (5) The Authority may, in a notice under subsection (3)(b), request the governing body to provide specified information to the Authority within a specified period (of not less than 28 days) in relation to any matter referred to in the draft report.
- (6) A governing body is to comply with a request under subsection (5).

*[Section 11 inserted by No. 37 of 2011 s. 14.]*

**12. Draft reports under s. 11(2), dealing with**

- (1) In this section —
- aggregated form** has the meaning given in section 19A(1);
  - draft report** means a report prepared under section 11(2);
  - relevant governing body** means a governing body to which a copy of a draft report is given under section 11(3).
- (2) After considering in relation to a draft report —
- (a) any submissions made to the Authority by a governing body under section 11(4); and
  - (b) any information provided to the Authority by a governing body under section 11(6); and

- (c) any other information available to the Authority under this Act that the Authority considers relevant,  
the Authority —
  - (d) may finalise the report, including any modifications it considers appropriate; or
  - (e) may decide not to proceed with the report.
- (3) If subsection (2)(d) applies, the Authority is to give a copy of the report to the Minister and to any relevant governing body.
  - (4) If subsection (2)(e) applies and without limiting section 9(4), the Authority is to notify any relevant governing body of the decision made by the Authority not to proceed with the report.
  - (5) Any information in a report finalised by the Authority under this section that relates to students is to be in aggregated form.

*[Section 12 inserted by No. 37 of 2011 s. 14.]*

*[13. Deleted by No. 37 of 2011 s. 14.]*

**14. Records of assessment and register of courses, Authority to keep etc.**

- (1) The Authority is to —
  - (a) prepare and keep —
    - (i) records of assessment made, caused to be made or recognised by the Authority; and
    - (ii) a register of courses which may be entered on a certificate of student achievement;
  - and
  - (b) liaise with governing bodies as to access by the Authority to, and the maintenance of, records of assessment made within schools and school systems;  
and

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- (c) provide such statistics, information and records to any education provider on achievement of students of that education provider as the Authority thinks fit.
- (2) The Authority is to provide, on payment of the prescribed fee, if any, a certificate of student achievement to a person who has completed secondary education and met the minimum requirements for graduation from secondary school.

*[Section 14 amended by No. 37 of 2011 s. 15 and 53(1).]*

**15. Powers of Authority**

- (1) The Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Without limiting the generality of subsection (1), the Authority has power to —
  - (a) conduct and promote relevant research; and
  - (b) provide such facilities as the Authority thinks necessary for or conducive to the performance of its functions; and
  - (c) acquire, hold, manage, develop, dispose of and otherwise deal in real and personal property; and
  - (da) with the approval of the Minister, provide funds by way of grants, subsidies or otherwise to governing bodies or other persons or bodies for purposes related to —
    - (i) the development of courses and standards of student achievement; and
    - (ii) the assessment of student achievement;
  - and
  - (d) apply for, obtain and hold intellectual property rights and design rights; and
  - (e) enter into a contract or arrangement with any person including any government, governmental agency or



governmental instrumentality, whether inside or outside Australia —

- (i) to provide products, consultancy or other services in the course of or incidental to the performance of its functions; or
- (ii) for the commercial exploitation of the rights referred to in paragraph (d), whether by assignment, licensing or otherwise;

and

- (f) publish and sell information acquired by it; and
- (g) charge for services it provides to any person, including any government, governmental agency or governmental instrumentality, whether inside or outside Australia.

*[Section 15 amended by No. 37 of 2011 s. 16 and 53(1).]*

**16. Functions of Authority, matters affecting performance of**

- (1) In performing its functions the Authority is to have regard to the capacity, financial and otherwise, of education providers to respond to decisions of the Authority and to the impact of the decisions on education providers.
- (2) In performing its functions the Authority may act alone or in conjunction with any person, firm, department of the Public Service, government agency or instrumentality, or government of any other place.
- (3) The Authority is to —
  - (a) consult and collaborate with such persons and bodies having functions relating to education and training and members of the community as the Authority thinks fit in relation to the performance of its functions;
  - (b) provide a forum for consultation and collaboration between persons and bodies having functions relating to secondary education and vocational education and

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training and universities on matters relating to admission to university and vocational education and training;

- (c) advise and confer with employers, organisations of employees and employers, and such other persons and bodies as the Authority thinks fit, with respect to recognition by those persons and bodies of courses in which students are assessed, or caused to be assessed, by the Authority, and advise those persons and bodies with respect to methods of assessment and methods of certification.

*[Section 16 amended by No. 37 of 2011 s. 17 and 53(1).]*

**17. Delegation by Authority**

- (1) The Authority may, by instrument, delegate the performance of any of its functions, except this power of delegation, to —
  - (a) a member or members; or
  - (ba) the chief executive officer; or
  - (b) a member or members of staff; or
  - (c) a committee; or
  - (d) any other person.
- (2) A function performed by a delegate under this section is to be taken to be performed by the Authority.
- (3) Where a delegate performs a function under this section the delegate is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (4) Nothing in this section is to be read as limiting the ability of the Authority to act through its officers and agents in the normal course of business.

*[Section 17 amended by No. 37 of 2011 s. 18 and 53(1).]*

**18. Minister may give directions to Authority**

- (1) The Minister may give directions in writing to the Authority with respect to the performance of its functions, either generally

or in relation to a particular matter, and the Authority is to give effect to any such direction.

- (2) The text of a direction given under subsection (1) is to be —
- (a) tabled in each House of Parliament not later than 14 sitting days of that House after the day on which the direction was given; and
  - (b) included in the annual report submitted by the accountable authority of the Authority under the *Financial Management Act 2006* Part 5.

*[Section 18 amended by No. 77 of 2006 Sch. 1 cl. 41(1); No. 37 of 2011 s. 19 and 53(1).]*

#### **19. Minister to have access to information**

- (1) The Minister is entitled —
- (a) to have information in the possession of the Authority; and
  - (b) where the information is in or on a document, to have, and make and retain copies of, that document.
- (2) For the purposes of subsection (1) the Minister may —
- (a) request the Authority to furnish information to the Minister;
  - (b) request the Authority to give the Minister access to information;
  - (c) for the purposes of paragraph (b) make use of a member of staff of the Authority to obtain the information and furnish it to the Minister.

- (3) The Authority is to comply with a request under subsection (2) and make its facilities and members of staff available to the Minister for the purposes of paragraph (c) of that subsection.

- (4) In this section —

**document** includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

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***information*** means information specified, or of a description specified, by the Minister that relates to the functions of the Authority, but does not include the information to which section 19L or 19M applies.

*[Section 19 amended by No. 22 of 2005 s. 46; No. 37 of 2011 s. 53(1).]*

## Part 3A — Student records

[Heading inserted by No. 22 of 2005 s. 47.]

### 19A. Terms used

- (1) In this Part, unless the contrary intention appears —
- aggregated form**, in relation to information, means in a form that could not reasonably be expected to result in the identification of any of the persons to whom the information relates;
- educational programme, principal** and **school** have the meanings given to those terms in section 4 of the School Education Act;
- exempt child** means a child who is exempted under section 11 of the School Education Act;
- final years of compulsory education** has the meaning given in the School Education Act section 4;
- Minister** means the Minister responsible for the administration of the School Education Act;
- provider** has the meaning given to that term in subsection (2);
- student** includes —
- (a) a child in either of the final years of compulsory education who is not enrolled at a school or receiving home education; and
  - (b) an exempt child;
- student record**, in relation to a student, means a record of —
- (a) any educational programme in which the student is or has been enrolled, or that is being or has been provided to the student by a home educator; and
  - (b) any option under section 11B of the School Education Act notified under this Part to the Authority by a provider in respect of the student; and
  - (c) any achievement or other result on the part of the student in relation to —

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- (i) an educational programme referred to in paragraph (a); or
  - (ii) a course, programme, activity or employment that comes within paragraph (b);
- and
- (d) any information in respect of the student required to be given to the Authority under this Part.
- (2) In this Part —
- provider**, in relation to a person who comes within a description in the first column of the Table to this definition, means a person or body specified in the second column of the Table opposite that description.

**Table**

1A.	A student enrolled at a community kindergarten.	The governing body.
1.	A student enrolled in an educational programme at a school (other than a community kindergarten).	The principal of the school.
2.	A student undertaking a course at a university.	The university.
3.	A student undertaking a higher education course registered under section 23 of the <i>Higher Education Act 2004</i> .	The education institution that provides the course.

- |    |   |  |
|----|---|--|
| 4. | A student undertaking an approved VET course within the meaning given to that term by the <i>Vocational Education and Training Act 1996</i> section 5(1). | The registered training provider (within the meaning given to that term by that Act section 5(1)), or a person referred to in section 58A(2) of that Act, who provides the course. |
| 5. | An apprentice under a training contract registered under the <i>Vocational Education and Training Act 1996</i> Part 7 Division 2.                         | The employer.  |
| 6. | A student undertaking a course, programme or activity prescribed by order made under section 11B(2) of the School Education Act.                          | The provider specified in the order in respect of the course, programme or activity.   |

*[Section 19A inserted by No. 22 of 2005 s. 47; amended by No. 44 of 2008 s. 52(2); No. 37 of 2011 s. 20 and 53(1); No. 46 of 2012 s. 15.]*

#### **19B. Application of this Part to overseas students**

- (1) In this section —
- overseas student*** means a person who holds a student visa issued under the *Migration Act 1958* of the Commonwealth.
- (2) Sections 19C and 19D do not apply to an overseas student unless the student consents to a record being opened for the student.

*[Section 19B inserted by No. 22 of 2005 s. 47.]*

**s. 19C**

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**19C. When student record to be opened**

- (1) In this section —  
*first year of the relevant education period* means —
- (a) for a student enrolled in a school during the pre-compulsory education period — the first year of that enrolment; or
  - (b) otherwise, the first year of the compulsory education period.
- (2) A student record must be opened for every student who is in the first year of the relevant education period —
- (a) by the principal of the school at which the student is enrolled at the beginning of the school year; or
  - (ba) in the case of a student who at that time is enrolled in a community kindergarten — by the governing body of the community kindergarten; or
  - (b) in the case of a student who at that time —
    - (i) is receiving home education; or
    - (ii) is an exempt child,by the chief executive officer referred to in section 229 of the School Education Act.
- (3) The regulations may provide for the opening of a student record for students for whom —
- (a) on the commencement of the *Curriculum Council Amendment Act 2011* section 21, a student record has not been opened; and
  - (b) a student record would not otherwise be required to be opened under this section.

*[Section 19C inserted by No. 22 of 2005 s. 47; amended by No. 37 of 2011 s. 21.]*



**19D. Provider may be directed to open student record**

If the Authority receives information from a provider about a student for whom a student record has not been opened under section 19C, the Authority may in writing request the provider to open a student record for the student, and the provider must comply with the request.

Penalty: \$1 500.

*[Section 19D inserted by No. 22 of 2005 s. 47; amended by No. 37 of 2011 s. 53(1).]*

**19E. How student record is opened**

A student record is opened by the giving of the following information to the Authority, in accordance with section 19H, in respect of a student —

- (a) the student's —
  - (i) name, including any previous name; and
  - (ii) address; and
  - (iii) date of birth;and
- (b) particulars of —
  - (i) any educational programme in which the student is enrolled or that is being provided to the student; or
  - (ii) any option under section 11B of the School Education Act for which participation arrangements have been made in respect of the student,  
at the time when the record is opened, or in the case of an exempt child, particulars of the exemption; and
- (c) any other prescribed information.

*[Section 19E inserted by No. 22 of 2005 s. 47; amended by No. 37 of 2011 s. 53(1).]*

**s. 19F**

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**19F. Change of student's provider, employer etc., provider to inform Authority of**

(1) In this section —

*apprentice* means a person who is an apprentice under a training contract registered under the *Vocational Education and Training Act 1996* Part 7 Division 2;

*employed* includes employed as an apprentice.

(2) Where —

(a) a student record has been opened by the principal of a school; and

(b) the student concerned is enrolled with, or becomes employed by, another provider,

the provider mentioned in paragraph (b) is to inform the Authority, in accordance with section 19H, of the enrolment or employment.

(3) Where a student is enrolled with or becomes employed by a provider otherwise than as mentioned in subsection (2), the provider is to inform the Authority, in accordance with section 19H, of the enrolment or employment.

(4) If a provider is aware that information previously given in respect of a student under this Part has changed or is incorrect, the provider is to give the new or correct information to the Authority in accordance with section 19H.

(5) Where a student ceases to be enrolled with, or employed by, a provider, the provider is to inform the Authority, in accordance with section 19H, of the cessation and when it occurred.

Penalty applicable to subsections (2), (3), (4) and (5): \$1 500.

*[Section 19F inserted by No. 22 of 2005 s. 47; amended by No. 44 of 2008 s. 52(3); No. 37 of 2011 s. 53(1).]*

**19G. Student's results etc., provider to inform Authority of**

A provider must, in accordance with section 19H, give to the Authority such information as may be prescribed in respect of results achieved, or not achieved, by a student for whom a student record has been opened.

Penalty: \$1 500.

*[Section 19G inserted by No. 22 of 2005 s. 47; amended by No. 37 of 2011 s. 53(1).]*

**19H. Informing Authority, general provisions about**

- (1) Information is to be given to the Authority under this Part —
  - (a) in a form of notice; or
  - (b) by an electronic means of communication,as approved by the Authority for the purposes of the provision under which the information is given.
- (2) Such information is also to be given in accordance with any provision made by the regulations, including provision as to the time or times at which the information is to be given.
- (3) Without limiting its powers under section 19I(3) or 19K, the Authority is not required to satisfy itself as to the validity or correctness of information given to it under this Part.

*[Section 19H inserted by No. 22 of 2005 s. 47; amended by No. 37 of 2011 s. 53(1).]*

**19I. Database of student records etc., Authority to maintain; use of database**

- (1) It is a function of the Authority to maintain a database containing —
  - (a) information relating to student records in the possession of the former Council immediately before the commencement of the *Curriculum Council Amendment Act 2011* section 9; and

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- (b) the information relating to student records given to it under this Part; and
- (c) other information relating to student records received by or otherwise available to the Authority.

(2A) In subsection (1) —

**former Council** means the Curriculum Council established under this Act as in force immediately before the commencement of the *Curriculum Council Amendment Act 2011* section 9<sup>1</sup>.

- (2) The database is to be maintained in such manner and form as the Authority thinks fit.
- (3) The Authority may at any time change information in the database to correct any error or omission.
- (4) The Authority may use the database for the purpose of keeping the records of assessment and the register of courses referred to in section 14(1)(a).
- (5) The Authority may use information in the database for the purpose of performing the functions mentioned in sections 11(1), 12(2) and 14(1)(c) and (2).

*[Section 19I inserted by No. 22 of 2005 s. 47; amended by No. 37 of 2011 s. 22 and 53(1).]*

**19J. Student etc. entitled to student record**

(1A) In this section —

**parent**, of a student, means a person who at law has responsibility for the day to day care, welfare and development of the student;

**student record** includes a record of assessment referred to in section 14(1)(a) that is kept in respect of a student on the database maintained under section 19I.

- (1) The Authority is to provide to a person who makes a request under subsection (2) and pays the prescribed fee, if any, a copy

of the student record kept by the Authority in respect of a student.

- (2) A request may be made for a copy of a student record only by the student concerned, a parent of the student or a person who is authorised in writing by the student to obtain such a copy.

*[Section 19J inserted by No. 22 of 2005 s. 47; amended by No. 37 of 2011 s. 23 and 53(1).]*

**19K. Authority may disclose information to provider for checking purposes**

The Authority may disclose to a provider information given to it under this Part in respect of a student for the purpose of ensuring that the information is accurate.

*[Section 19K inserted by No. 22 of 2005 s. 47; amended by No. 37 of 2011 s. 53(1).]*

**19L. Authority, on request, to give Minister information in aggregated form**

The Minister may in writing request the Authority to provide the Minister with information, in aggregated form, that comprises, includes or is derived from information given under this Part, and the Authority is to comply with any such request.

*[Section 19L inserted by No. 22 of 2005 s. 47; amended by No. 37 of 2011 s. 53(1).]*

**19M. Authority, on request, to give Minister information to assist in enforcing School Education Act**

- (1) In subsection (2) —
- allowed information***, in relation to a child, means —
- (a) the child's —
    - (i) name, including any previous name; and
    - (ii) address; and
    - (iii) date of birth;

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and

- (b) the details shown in the child's student record of —
  - (i) the educational programme in or for which the child was most recently enrolled or receiving home education; or
  - (ii) the option, or combination of options, under section 11B of the School Education Act, in which the child was most recently a participant.
- (2) The Minister may, for a purpose referred to in subsection (5), in writing request the Authority to provide the Minister with the allowed information in respect of children to whom this section applies.
- (3) The Authority is to comply with a request made under subsection (2).
- (4) This section applies to a child if the student record for the child shows that he or she is or appears to be a child who —
  - (a) is required by section 9 of the School Education Act to be enrolled in an educational programme or receiving home education, but is not so enrolled or receiving such education; or
  - (b) is required by section 11I of that Act to be participating in an option or a combination of options under section 11B of that Act, but is not so participating.
- (5) A request may only be made by the Minister under subsection (2) —
  - (a) in respect of children referred to in subsection (4)(a), for the purpose of monitoring or investigating compliance with section 9 of the School Education Act or assisting or securing such compliance; or
  - (b) in respect of children referred to in subsection (4)(b), for the purpose of —
    - (i) identifying those children in either of the final years of compulsory education who are not

engaged full-time in education, training or employment as provided by the School Education Act; and

- (ii) giving such children information about school education and the options that are available under that Act; and
- (iii) encouraging and helping parents in relation to the matters referred to in subparagraphs (i) and (ii).

*[Section 19M inserted by No. 22 of 2005 s. 47; amended by No. 37 of 2011 s. 53(1); No. 46 of 2012 s. 16.]*

**19N. Disclosure by Minister of information given under s. 19M**

- (1) This section applies to information provided to the Minister under section 19M in respect of a child to whom that section applies.
- (2) The Minister may disclose the information to a person or body that the Minister considers appropriate, including an authorised person as defined in section 12 of the School Education Act.
- (3) Such a disclosure may only be made by the Minister for a purpose referred to in section 19M(5).
- (4) A person, or a person connected with a body, that receives information disclosed by the Minister under subsection (2) must not, directly or indirectly, record, disclose or make use of the information except for a purpose referred to in section 19M(5).

Penalty: \$10 000 and imprisonment for 12 months.

*[Section 19N inserted by No. 22 of 2005 s. 47.]*

**19O. Delegation by Minister etc. of s. 19L, 19M and 19N functions**

Sections 224 and 225 of the School Education Act apply in respect of the functions of the Minister under sections 19L, 19M and 19N in the same way as they apply to the functions of the Minister under that Act.

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*[Section 19O inserted by No. 22 of 2005 s. 47.]*

**19P. Authority to give certain entities certain information in aggregated form**

- (1) The Authority is to provide each of —
- (a) the Director of Catholic Education in Western Australia;  
and
  - (b) the Association of Independent Schools of Western Australia (Inc.),

with the information prescribed in respect of that body being information that comprises, includes or is derived from information given under this Part.

- (2) The information is to be in aggregated form and given at the prescribed times.

*[Section 19P inserted by No. 22 of 2005 s. 47; amended by No. 37 of 2011 s. 53(1).]*



## Part 4 — Staff

### 20. Chief executive officer

- (1) A chief executive officer of the Authority is to be appointed under Part 3 of the *Public Sector Management Act 1994*.
- (2) Subject to the control of the Board, the chief executive officer is responsible for, and has the necessary powers to administer, the day to day operations of the Authority.

*[Section 20 amended by No. 37 of 2011 s. 24 and 53(1).]*

### 21. Other staff

- (1) Public service officers may be appointed or made available under Part 3 of the *Public Sector Management Act 1994* to enable the Authority to perform its functions.
- (2) The Authority may engage persons as staff otherwise than under Part 3 of the *Public Sector Management Act 1994*.
- (3) Persons referred to in subsection (2) are to be employed, subject to any relevant industrial award, order or agreement, on such terms and conditions as the Authority determines.
- (4) Nothing in subsection (3) affects the operation of Part VID of the *Industrial Relations Act 1979*.
- (5) Subsections (1) and (2) do not affect the power of the Authority to engage a person under a contract for services or appoint a person on a casual employment basis under section 100 of the *Public Sector Management Act 1994*.
- (6) The Authority may, by arrangement on such terms as are agreed with the relevant parties, make use of the services of a person employed by another person.

*[Section 21 amended by No. 20 of 2002 s. 27; No. 37 of 2011 s. 53(1); amended in Gazette 15 Aug 2003 p. 3692.]*

**22. Use of other government staff etc.**

- (1) The Authority may by arrangement make use, either full-time or part-time, of—
- (a) the services of any officer or employee in the Public Service or in a State agency or instrumentality or otherwise in the service of the State; or
  - (b) any facilities of a department of the Public Service or of a State agency or instrumentality.
- (2) An arrangement under subsection (1) is to be made between the Authority and the relevant employing authority and is to be made on such terms as they agree.

*[Section 22 amended by No. 37 of 2011 s. 25 and 53(1).]*

## Part 5 — Financial provisions

### 23. Funds of Authority

The funds available for the purpose of enabling the Authority to perform its functions consist of —

- (a) moneys from time to time appropriated by Parliament; and
- (b) moneys received by the Authority in the performance of its functions; and
- (c) moneys borrowed by the Authority under section 26; and
- (d) other moneys lawfully received by, made available to, or payable to, the Authority.

*[Section 23 amended by No. 37 of 2011 s. 26 and 53(1).]*

### 24. School Curriculum and Standards Authority Account

- (1) An account called the School Curriculum and Standards Authority Account is to be established as an agency special purpose account under the *Financial Management Act 2006* section 16, to which the funds referred to in section 23 are to be credited.
- (2) The Account referred to in subsection (1) is to be charged with —
  - (a) the remuneration and allowances payable under section 8; and
  - (b) interest on and repayment of moneys borrowed by the Authority under section 26; and
  - (c) all other expenditure lawfully incurred by the Authority in the performance of its functions.

*[Section 24 amended by No. 77 of 2006 Sch. 1 cl. 41(2); No. 37 of 2011 s. 27 and 53(1).]*

*[25. Deleted by No. 37 of 2011 s. 28.]*

**26. Borrowing by Authority**

- (1) The Authority may with the prior written approval of the Treasurer and on such terms and conditions as the Treasurer approves, borrow moneys for the purpose of performing its functions.
- (2) Any moneys borrowed by the Authority under subsection (1) may be raised —
  - (a) as one loan or as several loans; and
  - (b) in such manner as the Treasurer approves.
- (3) The total amount of the moneys so borrowed in any one financial year is not to exceed such amount as the Treasurer approves.

*[Section 26 amended by No. 37 of 2011 s. 29 and 53(1).]*

*[27, 28. Deleted by No. 37 of 2011 s. 30.]*

**29. Financial Management Act 2006 and Auditor General Act 2006, application of**

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Authority and its operations.

*[Section 29 amended by No. 77 of 2006 Sch. 1 cl. 41(3); No. 37 of 2011 s. 53(1).]*

## Part 6 — Miscellaneous

### 30. Protection from personal liability

- (1) An action in tort does not lie against a person, other than the Authority, for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act.
- (2) The protection given by this section applies even though the thing done in the performance or purported performance of a function under this Act may have been capable of being done whether or not this Act had been enacted.
- (3) This section does not relieve the Authority or the State of any liability that it might have for the doing of anything by a person against whom this section provides that an action does not lie.
- (4) In this section, a reference to the doing of anything includes a reference to the omission to do anything.

*[Section 30 amended by No. 37 of 2011 s. 31 and 53(1).]*

### 31. Execution of documents by Authority

- (1) The Authority is to have a common seal.
- (2) A document is duly executed by the Authority if —
  - (a) the common seal of the Authority is affixed to it in accordance with subsections (3) and (4); or
  - (b) it is signed on behalf of the Authority by a person or persons authorised to do so under subsection (5).
- (3) The common seal of the Authority is not to be affixed to any document except as authorised by the Authority.
- (4) The common seal of the Authority is to be affixed to a document in the presence of 2 members of the Board, and each of them is to sign the document to attest that the common seal was so affixed.

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- (5) The Authority may, by writing under its seal, authorise a member or members of the Board or a member or members of staff to sign documents on behalf of the Authority, either generally or subject to such conditions or restrictions as are specified in the authorisation.
- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary is shown.
- (7) When a document is produced bearing a seal purporting to be the common seal of the Authority, it is to be presumed that the seal is the common seal of the Authority until the contrary is shown.

*[Section 31 amended by No. 37 of 2011 s. 32 and 53(1).]*

**32. Information obtained by Board etc., disclosure and use etc. of restricted**

- (1) A person to whom this subsection applies must not, directly or indirectly, record, disclose or make use of any information obtained in the course of duty except —
  - (a) for the purpose of performing functions under this Act; or
  - (b) as required or allowed by this Act or under another law; or
  - (c) with the written consent of the person to whom the information relates; or
  - (d) in prescribed circumstances.

Penalty: \$10 000 and imprisonment for 12 months.

- (2) Subsection (1) applies to any person who is or has been —
  - (a) a member of the Board; or
  - (b) a member of a committee; or
  - (ca) the chief executive officer; or
  - (c) a member of staff.

- (3A) Subsection (1) does not apply to information in a report referred to in section 11 or 12 to the extent to which the information is summary or statistical information that could not reasonably be expected to enable details relating to a person or a school to be ascertained.
- (3) In relation to information given under Part 3A to the Minister responsible for the administration of the School Education Act, subsection (1) also applies to —
- (a) the chief executive officer under section 229 of that Act; and
  - (b) the persons referred to in section 235(1) of that Act.

*[Section 32 amended by No. 22 of 2005 s. 48; No. 37 of 2011 s. 33.]*

### **33. Regulations**

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for carrying out or giving effect to the purposes of this Act.
- (2) Without limiting the operation of subsection (1), the Governor may make regulations providing for —
- (a) fees and charges to be paid to the Authority for or in connection with —
    - (i) the assessment of courses for purposes of certification; and
    - (ii) an application to the Authority; and
    - (iii) the supply of certificates, records or materials by the Authority; and
    - (iv) the supply of services by the Authority;and
  - (b) procedures for the external assessment by the Authority of student achievement, including external assessment for the purposes of certification, and the proper conduct

of that assessment and, without limiting this paragraph, providing for —

- (i) enrolment for external assessments; and
- (ii) the designation of examination centres; and
- (iii) the appointment of supervisors of external assessments; and
- (iv) requirements for people undertaking or proposing to undertake external assessments (*candidates*) to produce identification documents; and
- (v) restrictions relating to materials that candidates may bring into examination centres and the exclusion from examination centres of candidates who do not comply with those restrictions; and
- (vi) the inspection by supervisors of materials brought into examination centres by candidates; and
- (vii) restrictions relating to the consumption of food and drinks by candidates during external assessments; and
- (viii) special arrangements for candidates with disabilities or suffering illness, injury or other impairment; and
- (ix) requirements for candidates suffering illness, injury or other impairment to provide to the Authority a medical certificate, statutory declaration or other evidence of that illness, injury or impairment; and
- (x) requirements relating to the conduct of candidates during external assessments; and
- (xi) the disqualification of, or other disciplinary action that the Authority may take in respect of, candidates who engage in fraud, collusion or



- other misconduct during external assessments;  
and
  - (xii) appeals by candidates who are subject to disqualification or other disciplinary action taken by the Authority; and
  - (xiii) protection of examination papers and related materials.
- (3) Subsection (2)(a)(iv) does not limit the power of the Authority under section 15(2)(g) to charge for services.
- (4) Before the Minister recommends the making or amendment of a regulation for the purposes of section 19E(c), 19G, 19H(2) or 19P, the Minister is to consult with, and take into account the views of —
- (a) the Director of Catholic Education in Western Australia; and
  - (b) the Association of Independent Schools of Western Australia (Inc.).

*[Section 33 amended by No. 22 of 2005 s. 49; No. 37 of 2011 s. 34 and 53(1).]*

*[34. Deleted by No. 37 of 2011 s. 35.]*

*[35. Omitted under the Reprints Act 1984 s. 7(4)(e).]*

**36. Review of Act**

- (1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiry of 5 years from the commencement of the *Curriculum Council Amendment Act 2011* section 36<sup>1</sup>.
- (2) In the course of that review the Minister is to consider and have regard to —
- (a) the effectiveness of the operations of the Authority; and

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- (b) the need for the continuation of the functions of the Authority; and
  - (c) any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.
- (3) The Minister is to prepare a report based on the review and, as soon as is practicable after the report is prepared, is to cause the report to be laid before each House of Parliament.

*[Section 36 amended by No. 37 of 2011 s. 36 and 53(1).]*

## Part 7 — Transitional provisions

[Heading inserted by No. 37 of 2011 s. 37.]

### 37. Terms used

In this Part —

**assets** —

- (a) means property of every kind whether tangible or intangible, real or personal, corporeal or incorporeal; and
- (b) without limiting paragraph (a), includes choses in action, goodwill, rights, interests and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by or the subject of an instrument or otherwise and whether liquidated or unliquidated, actual, contingent or prospective;

**commencement day** means the day on which the *Curriculum Council Amendment Act 2011* section 37 comes into operation<sup>1</sup>;

**Council** means the Curriculum Council under this Act as in force before the commencement day;

**liability** means any liability, duty or obligation whether actual, contingent or prospective, liquidated or unliquidated, or whether owed alone or jointly or jointly and severally with any other person;

**right** means any right, power, privilege or immunity whether actual, prospective or contingent.

[Section 37 inserted by No. 37 of 2011 s. 37.]

### 38. Curriculum Council abolished on 1 Mar 2012

At the beginning of the commencement day the Council is abolished and its members go out of office.

[Section 38 inserted by No. 37 of 2011 s. 37.]

**39. Devolution of Council's assets, liabilities etc.**

- (1) On the commencement day —
  - (a) the assets and rights of the Council that were immediately before that day vested in the Council vest in the Authority by force of this section; and
  - (b) the liabilities of the Council immediately before that day become, by force of this section, the liabilities of the Authority.
- (2) On and after the commencement day, any proceedings or remedy that, immediately before that day, might have been brought or continued by or available against or to the Council may be brought or continued by, and are or is available against or to, the Authority.
- (3) As soon as is practicable after the commencement day, all papers, documents, minutes, books of account and other records (however compiled, recorded or stored) relating to the operations of the Council are to be delivered to the Authority.

*[Section 39 inserted by No. 37 of 2011 s. 37.]*

**40. Chief executive officer of Council continues in office**

The person holding office as the chief executive officer of the Council immediately before the commencement day continues to hold office as if appointed as the chief executive officer of the Authority in accordance with section 20(1).

*[Section 40 inserted by No. 37 of 2011 s. 37.]*

**41. Transfer of members of staff to Authority**

- (1) A person engaged by the Council immediately before the commencement day under section 21(2) is to be taken to have been engaged by the Authority under that provision on the same terms and conditions as the person was engaged by the Council.

- (2) A person engaged under a contract for services or appointed on a casual employment basis by the Council under the *Public Sector Management Act 1994* section 100 immediately before the commencement day is to be taken to have been engaged or appointed under that section by the Authority on the same terms and conditions as the person was engaged or appointed by the Council.
- (3) An arrangement on agreed terms between the Council and an employer under section 21(6) or an employing authority under section 22 that is in force immediately before the commencement day is to be taken to be an arrangement under the relevant provision on the same terms between the Authority and the employer or employing authority.
- (4) Nothing in this section prevents the exercise by the Authority on and after the commencement day of its powers in relation to the management of the members of staff of the Authority.

*[Section 41 inserted by No. 37 of 2011 s. 37.]*

**42. Employees' rights preserved**

Except as otherwise agreed by an employee, the operation of section 41 does not —

- (a) affect the employee's pay, as that term is defined in the *Public Sector Management (Redeployment and Redundancy) Regulations 1994* regulation 3; or
- (b) affect the employee's existing or accruing rights in respect of annual leave, long service leave, sick leave or any other leave; or
- (c) affect any rights under a superannuation scheme; or
- (d) interrupt the continuity of the employee's service.

*[Section 42 inserted by No. 37 of 2011 s. 37.]*

**s. 43**

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**43. Curriculum Council Account**

The Curriculum Council Account established under section 24, as in force before the commencement day, continues to operate under that section as the School Curriculum and Standards Authority Account.

*[Section 43 inserted by No. 37 of 2011 s. 37.]*

**44. Completion of things commenced**

Anything commenced to be done by the Council before the commencement day may be continued by the Authority so far as the doing of that thing is within the functions of the Authority.

*[Section 44 inserted by No. 37 of 2011 s. 37.]*

**45. Continuing effect of things done**

Any act, matter or thing done or omitted to be done before the commencement day by, to or in respect of the Council, to the extent that the act, matter or thing —

- (a) has any force or significance; and
- (b) is not governed by another provision of this Part,

is to be taken to have been done or omitted by, to or in respect of the Authority so far as the act, matter or thing is relevant to the Authority.

*[Section 45 inserted by No. 37 of 2011 s. 37.]*

**46. Exemption from State taxes**

- (1) In this section —

**State tax** includes duty under the *Duties Act 2008* and any other tax under a written law.

- (2) State tax is not payable in relation to —

- (a) anything that occurs by the operation of this Part; or

- (b) anything done (including a transaction entered into or an instrument or document of any kind made, executed, lodged or given) under this Part, or to give effect to this Part, or for a purpose connected with or arising out of giving effect to this Part.

*[Section 46 inserted by No. 37 of 2011 s. 37.]*

**47. Agreements and instruments generally**

Any agreement or instrument subsisting immediately before the commencement day —

- (a) to which the Council was a party; or
- (b) that contains a reference to the Council,

has effect on and after the commencement day as if —

- (c) the Authority were substituted for the Council as a party to the agreement or instrument; and
- (d) any reference in the agreement or instrument to the Council were (unless the context otherwise requires) amended to be or include a reference to the Authority.

*[Section 47 inserted by No. 37 of 2011 s. 37.]*

**48. Immunity continues**

Despite the abolition of the Council under section 38, if the Council had the benefit of any immunity in respect of an act, matter or thing done or omitted before the commencement day, that immunity continues in that respect for the benefit of the Authority.

*[Section 48 inserted by No. 37 of 2011 s. 37.]*

**49. Duty of confidentiality continues to apply to members of the Council**

Despite the amendment of section 32(2)(a) by the *Curriculum Council Amendment Act 2011* section 33, section 32(1)

continues to apply to a person who has been a member of the Council.

*[Section 49 inserted by No. 37 of 2011 s. 37.]*

**50. Registration of documents**

(1) In this section —

*relevant officials* means —

- (a) the Registrar of Titles under the *Transfer of Land Act 1893*; or
- (b) the Registrar of Deeds and Transfers under the *Registration of Deeds Act 1856*; or
- (c) the Minister administering the *Land Administration Act 1997*; or
- (d) any other person authorised by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or any other property.

(2) The relevant officials are to take notice of the provisions of this Part and are empowered to record and register in the appropriate manner the necessary documents and otherwise to give effect to this Part.

*[Section 50 inserted by No. 37 of 2011 s. 37.]*

**51. Transitional regulations**

(1) If this Part does not provide sufficiently for a matter or issue of a transitional nature that arises as a result of the amendments made to this Act by the *Curriculum Council Amendment Act 2011*, the Governor may make regulations under section 33 (*transitional regulations*) prescribing all matters that are required, necessary or convenient to be prescribed for providing for the matter or issue.

(2) If the transitional regulations provide that a state of affairs specified or described in the regulations is taken to have existed,



or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.

- (3) If the transitional regulations contain a provision referred to in subsection (2), the provision does not operate so as —
- (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the day of publication of those regulations; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

*[Section 51 inserted by No. 37 of 2011 s. 37.]*

## **52. Saving**

The operation of any provision of this Part is not to be regarded —

- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities or the disclosure of information; or
- (c) as giving rise to any remedy by a party to an instrument or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability; or
- (d) as causing any contract or instrument to be void or otherwise unenforceable; or
- (e) as releasing or allowing the release of any surety.

*[Section 52 inserted by No. 37 of 2011 s. 37.]*

## **Schedule 1 — Provisions as to Board**

[s. 7]

*[Heading amended by No. 19 of 2010 s. 4; No. 37 of 2011 s. 38.]*

### **Division 1 — Provisions as to constitution and proceedings of the Board**

*[Heading amended by No. 37 of 2011 s. 39.]*

#### **1. Term of office of members**

- (1) Subject to clause 2, a member holds office for the term that is specified in the member's instrument of appointment, and that term is not to exceed —
  - (a) 4 years; or
  - (b) in the case of the member who is the chairperson, 5 years.
- (2A) A person's eligibility for reappointment or the term for which a person may be reappointed is not affected by an earlier appointment.
- (2) A member whose term of office expires by the passage of time continues in office until that member is reappointed or the successor of that member comes into office.

*[Clause 1 amended by No. 37 of 2011 s. 40.]*

#### **2. Resignation, removal etc. of members**

- (1) The office of a member becomes vacant if the member —
  - (a) resigns the office by written notice addressed to the Minister; or
  - (b) is an insolvent under administration, as that term is defined in the *Corporations Act 2001* of the Commonwealth; or
  - (ca) has ceased to be eligible to be appointed as a member; or
  - (c) is removed from office by the Minister under subclause (2).
- (2) The Minister may remove a member from office if the Minister is satisfied that the member —
  - (a) has neglected his or her duty; or
  - (b) has misbehaved; or

- (c) is incompetent; or
- (d) is suffering from mental or physical incapacity impairing the performance of his or her functions under this Act.

*[Clause 2 amended by No. 10 of 2001 s. 220; No. 37 of 2011 s. 41.]*

**3. Leave of absence for members**

The Board may grant leave of absence to a member on such terms and conditions as it thinks fit.

*[Clause 3 amended by No. 37 of 2011 s. 42.]*

**4. Appointed member unable to act**

- (1) If a member other than the chairperson is unable to act by reason of illness, absence or other cause, the Minister may appoint another person to act temporarily in his or her place and, while so acting according to the tenor of his or her appointment, that other person is to be taken to be a member.
- (2) If a member is performing the functions of the chairperson under clause 8(2), the Minister may, under subclause (1), appoint another person to act in his or her place as a member.
- (3) The appointment of a person under subclause (1) may be terminated at any time by the Minister.

*[Clause 4 amended by No. 37 of 2011 s. 43.]*

*[5. Deleted by No. 37 of 2011 s. 44.]*

**6. Saving**

No act or omission of a person acting in place of another under clause 4 or 8(2) is to be questioned on the ground that the occasion for his or her appointment or acting had not arisen or had ceased.

*[Clause 6 amended by No. 37 of 2011 s. 45.]*

**7. Meetings, convening**

- (1) Subject to subclause (2), meetings are to be held at the times and places that the Board determines.

(2) A special meeting of the Board may at any time be convened by the chairperson.

(3) The first meeting of the Board is to be convened by the chairperson.

*[Clause 7 amended by No. 37 of 2011 s. 53(2).]*

**8. Presiding officer**

(1) The chairperson is to preside at all meetings of the Board at which he or she is present.

(2) If the chairperson is absent from a meeting the members present are to appoint one of their number to preside.

*[Clause 8 amended by No. 37 of 2011 s. 53(2).]*

**9. Quorum**

A quorum for a meeting of the Board is 5 members.

*[Clause 9 amended by No. 37 of 2011 s. 46.]*

**10. Voting**

(1) At any meeting of the Board each member present has a deliberative vote.

(2) Subject to subclause (3), if the votes cast on a question are equally divided, the question remains unresolved until a subsequent meeting of the Board.

(3) If the votes cast on a question at a meeting of the Board were equally divided and the votes cast on the question at a subsequent meeting of the Board are again equally divided, the question is to be taken to have been resolved in the negative.

*[Clause 10 amended by No. 37 of 2011 s. 47 and 53(2).]*

**11. Minutes**

The Board is to cause accurate minutes to be kept of the proceedings at its meetings.

*[Clause 11 amended by No. 37 of 2011 s. 53(2).]*

**12. Resolution without meeting**

A resolution in writing signed or assented to by each member by letter or facsimile is as effectual as if it had been passed at a meeting of the Board.

*[Clause 12 amended by No. 37 of 2011 s. 53(2).]*

**13. Telephone or video meetings**

A communication between not less than 5 members by telephone, audio-visual or other electronic means is a valid meeting of the Board if each participating member is capable of communicating with every other participating member instantaneously at all times during the proceedings.

*[Clause 13 amended by No. 37 of 2011 s. 48.]*

*[14. Deleted by No. 37 of 2011 s. 49.]*

**15. Board to determine own procedures**

Subject to this Act, the Board is to determine its own procedures.

*[Clause 15 amended by No. 37 of 2011 s. 53(2).]*

**Division 2 — Disclosure of interests, etc.**

**16. Material personal interests to be disclosed**

- (1) A member who has a material personal interest in a matter being considered or about to be considered by the Board must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

Penalty: a fine of \$10 000.

- (2) A disclosure under subclause (1) is to be recorded in the minutes of the meeting.

*[Clause 16 amended by No. 50 of 2003 s. 53(2); No. 37 of 2011 s. 50.]*

**17. Member with material personal interest not to vote etc.**

A member who has a material personal interest in a matter that is being considered by the Board —

- (a) must not vote whether at a meeting or otherwise —
  - (i) on the matter; or
  - (ii) on a proposed resolution under clause 18 in respect of the matter, whether relating to that member or a different member;

and

- (b) must not be present while —
  - (i) the matter; or
  - (ii) a proposed resolution of the kind referred to in paragraph (a)(ii),is being considered at a meeting.

*[Clause 17 amended by No. 37 of 2011 s. 51.]*

**18. Board may disapply cl. 17**

Clause 17 does not apply if the Board has at any time passed a resolution that —

- (a) specifies the member, the interest and the matter; and
- (b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

*[Clause 18 amended by No. 37 of 2011 s. 53(2).]*

**19. Quorum where cl. 17 applies**

- (1) Despite clause 9, if a member is disqualified under clause 17 in relation to a matter, a quorum is present during the consideration of the matter if at least 4 members are present who are entitled to vote on any motion that may be moved at the meeting in relation to the matter.
- (2) The Minister may deal with a matter insofar as the Board cannot deal with it because of subclause (1).

*[Clause 19 amended by No. 37 of 2011 s. 52 and 53(2).]*

**20. Minister may declare cl. 17 and 19 inapplicable**

- (1) The Minister may by writing declare that clause 17 or 19 or both of them do not apply in relation to a specified matter either generally or in voting on particular resolutions.
- (2) The Minister must within 14 days after a declaration under subclause (1) is made cause a copy of the declaration to be laid before each House of Parliament.

*[Schedules 2 and 3 deleted by No. 37 of 2011 s. 54.]*

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**Notes**

<sup>1</sup> This is a compilation of the *School Curriculum and Standards Authority Act 1997* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Curriculum Council Act 1997</i> <sup>2</sup>	17 of 1997	8 Jul 1997	s. 1 and 2: 8 Jul 1997; Act other than s. 1 and 2: 1 Aug 1997 (see s. 2 and <i>Gazette</i> 25 Jul 1997 p. 3907)
<i>School Education Act 1999</i> s. 247	36 of 1999	2 Nov 1999	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7904)
<i>Corporations (Consequential Amendments) Act 2001</i> s. 220	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and Cwlth <i>Gazette</i> 13 Jul 2001 No. S285)
<i>Labour Relations Reform Act 2002</i> s. 27	20 of 2002	8 Jul 2002	15 Sep 2002 (see s. 2(1) and <i>Gazette</i> 6 Sep 2002 p. 4487)
<b>Reprint 1: The Curriculum Council Act 1997 as at 11 Apr 2003</b> (includes amendments listed above)			
<i>Sentencing Legislation Amendment and Repeal Act 2003</i> s. 53	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Labour Relations Reform (Consequential Amendments) Regulations 2003</i> r. 21 published in <i>Gazette</i> 15 Aug 2003 p. 3685-92			15 Sep 2003 (see r. 2)
<i>Acts Amendment (Higher School Leaving Age and Related Provisions) Act 2005</i> Pt. 3	22 of 2005	18 Nov 2005	1 Jan 2006 (see s. 2(3))
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4, 5(1) and Sch. 1 cl. 41	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<b>Reprint 2: The Curriculum Council Act 1997 as at 13 Apr 2007</b> (includes amendments listed above)			



<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Training Legislation Amendment and Repeal Act 2008 s. 52</i>	44 of 2008	10 Dec 2008	10 Jun 2009 (see s. 2(2))
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009 s. 45</i>	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))
<i>Standardisation of Formatting Act 2010 s. 4</i>	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Public Sector Reform Act 2010 s. 89</i>	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)
<i>Curriculum Council Amendment Act 2011 Pt. 2</i>	37 of 2011	13 Sep 2011	1 Mar 2012 (see s. 2(b) and <i>Gazette</i> 28 Feb 2012 p. 841)
<b>Reprint 3: The School Curriculum and Standards Authority Act 1997 as at 27 Apr 2012</b> (includes amendments listed above)			
<i>School Education Amendment Act 2012 Pt. 3</i>	46 of 2012	29 Nov 2012	1 Jan 2013 (see s. 2(b))
<i>School Education Amendment Act 2014 Pt. 3</i>	28 of 2014	27 Nov 2014	2 Feb 2015 (see s. 2(c) and <i>Gazette</i> 16 Jan 2015 p. 311)

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

### Provisions that have not come into operation

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>School Curriculum and Standards Authority Amendment Act 2017 s. 3-8<sup>3</sup></i>	17 of 2017	13 Dec 2017	To be proclaimed (see s. 2(b))

<sup>2</sup> Now known as the *School Curriculum and Standards Authority Act 1997*; short title changed (see note under s. 1).

<sup>3</sup> On the date as at which this compilation was prepared, the *School Curriculum and Standards Authority Amendment Act 2017* s. 3-8 had not come into operation. They read as follows:

**3. Act amended**

This Act amends the *School Curriculum and Standards Authority Act 1997*.

**4. Section 3 amended**

- (1) In section 3 insert in alphabetical order:

***research involving students*** means research conducted by any person or body in relation to either or both of the following purposes —

- (a) promoting student achievement or student wellbeing;
- (b) understanding outcomes connected with student achievement or wellbeing;

***wellbeing***, of a student, includes the following —

- (a) the care of the student;
- (b) the physical, emotional, psychological and educational development of the student;
- (c) the physical, emotional and psychological health of the student;
- (d) the safety of the student.

- (2) In section 3 in the definition of ***vocational education and training*** delete “*Act 1996*.” and insert:

*Act 1996*;

**5. Section 9 amended**

In section 9(1):

- (a) after paragraph (e) insert:
  - (ea) to administer and support the implementation of national assessment of student achievement that is the subject of agreements or arrangements made between the State and the Commonwealth (whether or not those agreements or arrangements involve another State or a Territory) or a governing body, for example, the National Assessment Program; and

- (b) in paragraph (q) delete “achievement;” and insert:  
achievement; and
- (c) after paragraph (q) insert:
  - (r) to support the development of the national school curriculum and national assessments; and
  - (s) to conduct and promote, or participate in, research involving students.

**6. Section 15 amended**

Delete section 15(2)(a).

**7. Section 32 amended**

(1) Delete section 32(1) and insert:

- (1) A person to whom subsection (2) applies must not (whether directly or indirectly) collect, use or disclose any information obtained by the person because of —
  - (a) the person’s office, position, employment or engagement under or for the purposes of this Act; or
  - (b) any disclosure made to the person under this Act.

Penalty for this subsection: \$10 000 and imprisonment for 12 months.

(2) After section 32(3) insert:

- (4) A person does not commit an offence under subsection (1) if the collection, use, or disclosure of information is authorised under section 32A.

Note: The heading to amended section 32 is to read:  
**Confidentiality**

**8. Section 32A and 32B inserted**

After section 32 insert:

**32A. Authorised collection, use, or disclosure of information**

- (1) For the purposes of this Act, the collection, use or disclosure of information is authorised if the information is collected, used or disclosed in good faith in any of the following circumstances —
  - (a) for the purpose of, or in connection with, performing a function under this Act or another written law;
  - (b) as required or allowed under this Act or another law.
- (2) If the collection, use or disclosure of information is authorised under subsection (1) —
  - (a) no civil or criminal liability is incurred in respect of the collection, use or disclosure; and
  - (b) the collection, use or disclosure is not to be regarded as —
    - (i) a breach of any duty of confidentiality or secrecy imposed by law; or
    - (ii) a breach of professional ethics or standards or any principles of conduct applicable to a person's employment; or
    - (iii) unprofessional conduct.

**32B. Disclosure of information for research involving students**

- (1) In this section —

**relevant information** includes the following —

  - (a) any report on student achievement finalised by the Authority under section 12;
  - (b) information (including personal information) provided to, or disclosed by, the Authority under Part 3A;

**personal information** means information about an individual whose identity is apparent or can be reasonably ascertained from the information.
- (2) The Board may disclose any relevant information that it holds for the purpose of, or in connection with, performing a function under this Act to any person or body that it considers appropriate who is carrying out, or who proposes to carry out, research involving students.
- (3) Before disclosing any relevant information that is or includes personal information, the Board must be satisfied that —
  - (a) disclosure of the information is reasonably necessary for the purpose for which it is to be disclosed; and

- (b) the purpose for which the information is to be disclosed cannot be achieved by providing information that is not personal information; and
  - (c) it is impracticable to obtain the consent of the individual or individuals to whom the information relates.
- (4) If the Board discloses any relevant information under this section, it may impose any conditions on the provision of the information that it thinks fit, including conditions —
  - (a) requiring the person to whom the information is disclosed to take all reasonable steps to store the information in a way that protects it from misuse, interference, loss, unauthorised access or modification; and
  - (b) requiring the person to whom the information is disclosed to use the information only for the purpose for which it is disclosed; and
  - (c) specifying the maximum period that the information may be retained; and
  - (d) relating to the copying, return, or disposal of the information.
- (5) A person to whom information is disclosed under this section must not contravene a condition that applies to the disclosure.  
Penalty for this subsection: a fine of \$10 000.
- (6) The regulations may prescribe procedures relating to the disclosure of information under this section that the Board must comply with.

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
advisory committee.....	3
aggregated form .....	12(1), 19A(1)
allowed information .....	19M(1)
apprentice.....	19F(1)
assessment.....	3
assets .....	37
Authority.....	3
Board .....	3, 6(1)
candidates .....	33(2)
chairperson.....	3
chief executive officer .....	3
commencement day .....	37
committee .....	3
community kindergarten .....	3
compulsory education period.....	3
Council.....	37
course.....	3
Curriculum and Assessment Committee.....	3
document.....	19(4)
draft report .....	11(2), 12(1)
Education Department .....	3
education provider .....	3
educational programme.....	19A(1)
employed.....	19F(1)
exempt child.....	19A(1)
final years of compulsory education .....	19A(1)
first year of the relevant education period.....	19C(1)
former Council.....	19I(2A)
governing body .....	3
home education .....	3
information .....	19(4)
liability .....	37
member .....	3
member of staff.....	3
Minister.....	19A(1)
overseas student .....	19B(1)
parent .....	19J(1A)
principal .....	19A(1)
provider.....	19A(1), 19A(2)

relevant governing body .....	12(1)
relevant officials .....	50(1)
right.....	37
school.....	3, 19A(1)
School Education Act .....	3
school system.....	3
school years .....	3
Standards Committee .....	3
standards of student achievement .....	3
State tax .....	46(1)
student.....	3, 19A(1)
student record.....	19A(1), 19J(1A)
transitional regulations.....	51(1)
vocational education and training .....	3