



## EDUCATION AMENDMENT ACT (No. 3) 1984

No. 99 of 1984

### TABLE OF PROVISIONS

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|--|--|
| 1. Short title.  | 7. Amendment of section 7A of Principal Act (Enrolment of children).   |
| 2. Commencement.   | 8. Amendment of section 8 of Principal Act (Compulsory attendance at schools or special education facilities). |
| 3. Principal Act.  | 9. Repeal of section 13 of Principal Act.  |
| 4. Amendment of section 3 of Principal Act (Interpretation).                                 | 10. Amendment of section 47 of Principal Act (Regulations).  |
| 5. Amendment of section 5 of Principal Act (State schools and special education facilities). |  |
| 6. Amendment of section 6 of Principal Act (Nature of instruction in State schools).         |  |

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### AN ACT to amend the Education Act 1932.

[Royal Assent 12 December 1984]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1**—This Act may be cited as the *Education Amendment Act* Short title. (No. 3) 1984.

Commence-  
ment.

**2**—This Act shall commence on 1st February 1985.

Principal Act.

**3**—In this Act, the *Education Act 1932\** is referred to as the Principal Act.

Amendment of  
section 3 of  
Principal Act  
(Interpre-  
tation).

**4**—(1) Section 3 (1) of the Principal Act is amended as follows:—

(a) by inserting the following definition before the definition of “ Department ”:—

“ child ” means a person who has not attained the age of 16 years;

(b) by inserting the following definition after the definition of “ Director-General ”:—

“ home ” means the usual place of residence of the child;

(c) by omitting the definition of “ kind ” and substituting the following definition:—

“ kind ”, used in relation to a kind of school or college, refers to the progressive stages of education of the children or other persons enrolled at a school or college of that kind;

(d) by inserting the following definitions after the definition of “ parent ”:—

“ pupil ” means any child or other person enrolled at a State school or special education facility;

“ special education ” means the process of providing additional services for any child or other person whose educational progress would be seriously endangered without special help;

“ special education facility ” means any school, centre, unit, class, or other place at which children or other persons who need special education may attend to receive it;

(e) by inserting “ or college ” after “ school ” in the definition of “ State school ”;

\* 23 Geo. V No. 22. For this Act, as amended to 1st February 1980, see the continuing Reprint of Statutes. Subsequently amended by No. 35 of 1980, No. 54 of 1981, Nos. 10 and 99 of 1982, No. 88 of 1983, and Nos. 20, 24, and 29 of 1984.

(f) by inserting the following definition after the definition of “ State school ”:—

“ student ” means a pupil enrolled at a secondary or technical college;

(g) by inserting “ or other educational institution ” after “ school ” in the definition of “ type ”.

(2) Section 3 of the Principal Act is further amended by omitting subsections (2) and (3) and substituting the following subsections:—

(2) For the purposes of this Act, the progressive stages of education ordinarily provided at schools and colleges to children and other persons may be referred to as “ primary ” and “ secondary ”.

(3) A reference in this Act to post-primary education shall be construed as a reference to any secondary or other education appropriate to the needs of persons who have passed beyond the stage of primary education.

**5**—Section 5 of the Principal Act is amended—

(a) by omitting from subsection (1) “ State schools and in such places as he may think ” and substituting “ State schools and special education facilities as he thinks ”;

(b) by inserting in subsection (3) “ and students ” after “ pupils ”;

(c) by inserting in that subsection “ State ” before “ schools ” secondly and thirdly occurring; and

(d) by inserting “ or special education facility ” after “ school ” in subsection (4).

Amendment of section 5 of Principal Act (State schools and special education facilities).

**6**—Section 6 (5) of the Principal Act is amended by omitting “ parents object ” and substituting “ parent objects ”.

Amendment of section 6 of Principal Act. (Nature of instruction in State schools).

**7**—(1) Section 7A of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:—

Amendment of section 7A of Principal Act (Enrolment of children).

(1) Subject to this section, the parent of every child who has attained the age of 6 years shall cause the child to be enrolled, as prescribed, in a State school or special education facility.

(1A) Subject to this section, enrolment may be effected in accordance with subsection (3A) in a State school or special education facility that is of a kind appropriate to the stage of education of the child or is appropriate to the special educational needs of the child, as the case may be.

(1B) Where, in the opinion of the Director-General, a child who has attained the age of 6 years should be enrolled at a particular State school or special education facility for the purpose of receiving special help in his education, the Director-General may, in writing, advise the parent of the child accordingly and state the reasons for his opinion.

(1C) Where the parent of a child in relation to whom advice from the Director-General has been received under subsection (1B) considers that compliance with that advice is not in the best interests of the child or practicable, he shall, as soon as practicable, notify the Director-General accordingly.

(1D) Where the parent of a child does not notify the Director-General under subsection (1C) of his objection to enrolling the child as advised, the parent shall proceed to enrol the child, as prescribed, in accordance with the advice of the Director-General.

(1E) The Director-General may, after consultation with a parent from whom notification has been received under subsection (1C)—

- (a) approve the enrolment of the child at some other State school or special education facility; or
- (b) refer the matter to a committee appointed by the Minister under subsection (1F).

(1F) For the purpose of determining disputes relating to the enrolment of a child at a particular State school or special education facility in accordance with advice received under subsection (1B), the Minister shall appoint one or more committees, each consisting of—

- (a) a person employed by the Mental Health Services Commission established under the *Mental Health Services Act 1967*;
- (b) a person employed in the Department for Community Welfare; and

(c) a person who is not an officer or a temporary employee within the meaning of the *Public Service Act 1973*.

(1G) A person may not be appointed under subsection (1F), unless his experience or qualifications renders or render him suitable to hear and determine a dispute referred under subsection (1E).

(1H) A committee may be appointed to hear a particular dispute or disputes, or disputes arising over a specified period of time.

(1I) A member of a committee who is appointed under paragraph (c) of subsection (1F) may be paid such remuneration as the Minister determines.

(1J) A committee appointed under subsection (1F), having invited submissions from the parties to a dispute referred to it under subsection (1E), may confirm the advice of the Director-General or give such directions relating to the enrolment of the child in a State school or special education facility as are, in the opinion of the majority of the committee, reasonable in the circumstances.

(1K) The Director-General and the parent of a child in relation to whom a dispute has been referred to a committee shall comply with the advice confirmed, or a direction given, by that committee under subsection (1J), in relation to the enrolment of that child in a State school or special education facility.

(1L) A person who has attained the age of 16 years, and who has not attained such age as the Director-General may determine from time to time in relation to that person, may, if he is deemed by the Director-General to need special education or additional education, be enrolled as prescribed in a particular State school or special education facility.

(1M) A child who has not attained the age of 6 years, who is deemed by the Director-General to need access to special education, may be enrolled, as prescribed, in a particular State school or special education facility.

(1N) The Director-General may, upon application being made to him, authorize the payment to the parent of a child of such an amount or amounts as he considers reasonable in relation to the cost of enrolling the child in accordance with advice given by the Director-General under subsection (1B), under subsection (1M), or in accordance with a direction given by a committee under subsection (1J) in a State school or special education facility.

(1o) The Director-General may—

- (a) where he considers it in the best interests of a child to do so, arrange for that child to receive an appropriate programme of education at home or some other place deemed by him to be suitable for that purpose; and
- (b) upon application being made to him, authorize the the payment to the parent of the child of such an amount or amounts as he considers reasonable in relation to the cost of complying with such an arrangement.

(2) Section 7A (2) of the Principal Act is amended as follows:—

- (a) by omitting “A child shall be exempt from such enrolment” and substituting “Subject to any decision that may be made under this section requiring a child to be enrolled at a State school or special education facility, a child is exempt from enrolment”;
- (b) by omitting “scholar” from paragraph (a) and substituting “pupil”;
- (c) by omitting paragraphs (d) and (e) and substituting the following paragraphs:—
  - (d) to receive education in accordance with a programme of education arranged for him under subsection (1o) (a);
  - (e) residing not less than 10 kilometres, by the nearest practicable route, from a State school, if—

- (i) no conveyance provided by the Minister for the conveyance of children to any such school passes within 3 kilometres, by the nearest practicable route, of the place where the child resides; and
- (ii) the Minister has not made other provision for the education of that child;

(3) Section 7A of the Principal Act is further amended by omitting subsection (3) and substituting the following subsection:—

- (3) Enrolment under this section shall be effected—
  - (a) in the case of a State school—by lodging with its principal; or
  - (b) in the case of a special education facility—by lodging with a person approved in writing by the Director-General for that purpose, a written notification setting out the name, age, sex, and home of the child or other person to be enrolled.

(4) Section 7A (4) of the Principal Act is amended as follows:—

- (a) by inserting “ or other person ” after “ child ” ( wherever occurring );
- (b) by inserting “ or special education facility ” after “ school ” ( where first and second occurring );
- (c) by omitting from paragraph (b) “ school; or ” and substituting “ school or special education facility; ”;
- (d) by inserting the following paragraph after paragraph (b):—
  - (ba) in the case of a person enrolled under subsection (1L), reaches the age determined by the Director-General under that subsection;
  - or
- (e) by omitting from paragraph (c) “(1)” and substituting “(2)”.

(5) Section 7A (5) of the Principal Act is amended by omitting “ Penalty: \$10.” and substituting “ Penalty: \$100.”.

Amendment of section 8 of Principal Act (Compulsory attendance at schools or special education facilities).

**8**—(1) Section 8 (1) of the Principal Act is amended as follows:—

- (a) by omitting “ parents ” and substituting “ parent ”;
- (b) by omitting from paragraph (a) “ school; or ” and substituting “ school;”;
- (c) by inserting the following paragraph after paragraph (a):—
  - (aa) special education facility; or

(2) Section 8 of the Principal Act is amended by inserting the following subsection after subsection (2):—

(2A) Notwithstanding anything contained in subsection (2), where a child by reason of incapacity or any other cause has special educational needs and for that reason has been enrolled in an appropriate or a particular State school or special education facility, as the case may be, he shall not, in the absence of special circumstances, be excused from attendance at that State school or special education facility by reason only of that incapacity or other cause.

(3) Section 8 (4) of the Principal Act is amended as follows:—

- (a) by inserting in paragraph (a) “ or special education facility ” after “ school ” (wherever occurring);
- (b) by inserting in paragraph (b) “ or a special education facility ” after “ school ”.

Repeal of section 13 of Principal Act.

**9**—Section 13 of the Principal Act is repealed.

Amendment of section 47 of Principal Act (Regulations).

**10**—Section 47 (1) of the Principal Act is amended by inserting the following paragraphs after paragraph (a):—

- (aa) programmes of special education;
- (ab) the courses of instruction in special education facilities and classes providing special education;
- (ac) the books and materials to be used in special education facilities, in programmes of special education, and in classes providing special education;



- (*ad*) the supply of books and materials referred to in paragraph (*ac*), and the application of money received for their acquisition;
- (*ae*) the times and duration of terms and hours of attendance at special education facilities and classes providing special education respectively, generally and in particular cases, and the granting of holidays;
- (*af*) the maintenance of discipline, supervision, and care of the children and other persons enrolled in those facilities and classes;

