

Review of

Education and Training Legislation

Discussion Paper



Department of Education and Training Education and Training Review of Educational Legislation Discussion

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Foreword



Victoria's Education Act was first enacted in 1873. While it was reviewed in 1958, there has never been a fundamental revision of this Act, which both underpins Victoria's system of public instruction and provides the framework for the regulation of all schooling in this State.

This Discussion Paper is designed to canvass views of the community – including parents, students, teachers and other stakeholders – about how new legislation can meet contemporary needs, and be responsive to the needs of future generations.

Obviously, what was relevant 130 years ago, or even 50 years ago, is not necessarily relevant today. We need to ensure that our education legislation aligns with the needs, expectations and aspirations of a community set in the 21st century, rather than those of the 19th and 20th centuries.

It is particularly appropriate to conduct such a review this year, which marks the centenary of public provision of secondary education in Victoria. As we look back and celebrate one hundred years of public secondary education, we also look towards future education needs and how these might best be expressed in the legislation which governs our schools, in both the government and non-government sectors.

The review forms part of the wider program of modernisation, innovation and improvement in education initiated by the current Victorian Government. In October 2000 the Premier established goals and targets for education and training in Victoria and challenged all schools, training and higher education institutions, regardless of ownership, to be involved in raising standards of achievement for Victoria's young people.

Following on from the Premier's statement, the Government has released a number of specific policy statements supported by a wide range of initiatives to improve outcomes in all areas of education and training in Victoria. Implicit in our reform program has been a recognition of the diversity of educational and training provision in Victoria.

In particular, we recognise that parents want a wide range of choice in the institutions in which they can enrol their children and students require choice in further education and training to realise their own ambitions. How best to provide that choice within a framework that assures minimum standards and quality of outcomes is one of the many issues raised in this paper.

This Review is another important step in the modernisation and improvement of education and training delivery in this State.

In reading and responding to the issues raised in this Discussion Paper, you will be making a direct contribution to this task.

A handwritten signature in black ink, appearing to read 'Lynne Kosky'.

Lynne Kosky
Minister for Education and Training

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Background

Education and training practices have changed dramatically since 1958, the last occasion when the Government examined the core legislation that underpins Victoria's education system. Today, the education and training sector is characterised by broader curricula; greater autonomy for individual schools and training providers; greater competition between providers, both government and non-government; an increased focus on employment outcomes; and new demands on teachers and trainers.

Accordingly, the Victorian Government is conducting a Review of Education and Training Legislation ('the Review') to examine the existing Acts that cover the education and training system. The objectives of the Review are to:

- Ensure the relevance of legislation to the contemporary education and training environment;
- Ensure that legislation supports the achievement of government policy objectives; and
- Minimise the legislative obstacles to innovative service delivery.

The result should be contemporary legislation that enables government to be flexible and responsive in the way it regulates the quality of education and training. Legislation should reinforce government accountability for the quality of outcomes of education and training without being restricted by prescriptive processes and mechanisms. It should also articulate the joint obligation that the broader community, especially parents and students, shares with government.

Methodology

The Victorian Government is considering a total of 15 Acts: eight core Acts and seven Acts dealing with miscellaneous matters (see Appendix 1). The nine individual university Acts are not being considered in this Review. The eight core Acts are:

- *Education Act 1958*
- *Teaching Service Act 1981*
- *Vocational Education and Training Act 1990*
- *Adult, Community and Further Education Act 1991*
- *Tertiary Education Act 1993*
- *Victorian Curriculum and Assessment Authority Act 2000*
- *Victorian Qualifications Authority Act 2000*
- *Victorian Institute of Teaching Act 2001*.

Consideration will also be given to the explicit reference to the responsibility of parents to ensure that children of school age must attend school, found in the *Community Services Act 1970*. School age is defined in the *Education Act 1958*.

The Department of Education & Training has already completed a technical analysis of existing education and training legislation. This first phase of the Review identified Acts or elements of Acts that are obsolete, repetitive, obscure, contradictory or unnecessarily obstructive to the delivery of contemporary education and training. One of the outcomes of the technical analysis of existing legislation was the identification of a number of areas where clarity about the powers of school councils is required. To this end, a concurrent review of school governance is being undertaken and any implications for legislation relating to school councils will inform the overall Review.

The technical analysis also made a number of recommendations with respect to the seven non-core Acts dealing with miscellaneous matters. These are listed in Appendix 1 (under *Miscellaneous Acts*) and will be the subject of specific consultations with pertinent stakeholders.

In addition, in 2003 the Government commissioned a *Review of the Registered Schools Board*. That review highlighted a range of issues to do with both the processes of the Board and the context in which it operates. The Minister for Education and Training has referred the findings of that review for consideration through the Review of Education and Training Legislation.

This Review is premised on the view that existing legislation can be reformed to enable the education and training system to better meet contemporary community needs and expectations. To inform this process, consultation both with the community and with stakeholders in the education and training system is essential. This consultation process seeks community and stakeholder views on what underpinning principles and organisational arrangements might enable government to better meet Victoria's expectations of education and training.

SECTION 1

Community Needs and Expectations

The size and diversity of Victoria's contemporary education and training system necessitates a flexible and responsive legislative framework.

In 2004, the Victorian school system educated over 826,000 students attending 2,317 schools: 1,618 government, 483 Catholic, and 216 independent schools. Of Victoria's 1,618 government schools, there are 1,223 primary, 49 primary–secondary, 262 secondary, 80 special and four language schools. These schools range in size from seven students up to nearly 3,000 students. The Department of Education & Training employs over 37,000 teachers.

In the vocational education and training sector, Victoria has 19 TAFE institutions (including five universities with TAFE divisions), over 450 ACE organisations, two adult education institutions, and over 1100 registered training organisations. In addition, Victoria has nine universities, and 36 private providers of higher education.

Current legislation does not necessarily respond adequately to the contemporary education and training environment or ensure clarity around the fundamental issues that impact on all students. This environment is characterised by:

- greater diversity in student expectations and needs;
- increased insistence by parents on their right to choose a school suited to their children's needs;
- increased range of pathways to Year 12 and post-school education;
- significant enrolment growth in vocational education and training programs;
- inconsistency in registration requirements applying to government and non-government schools;
- inconsistency in quality assurance arrangements and accountability requirements applying to government and non-government schools;
- increased emphasis on the reality of multiple careers and lifelong education;
- increased learning opportunities offered through new technologies; and
- greater complexity in funding arrangements.

Various interest groups across the community – including industry, parents, students and a plethora of education stakeholders – demand more and different things from education and training providers. These interest groups are extremely aware of the performance of providers and are prepared to play a greater role in their management. The community recognises that education and training is essential to individual and community prosperity and therefore demands quality results from all education and training providers.

The Victorian community expects the education and training system it funds, fully or partially, to provide:

- The right *curriculum* – literacy, numeracy and other key determinants of knowledge;
- The right *skills* – research, communication, discussion, innovation and creativity; and
- The right *values* – honesty, mutual respect, freedom of speech, appreciation for learning, and cultural and civic understanding.

Curriculum, skills and values will change over time, and need to be determined in the context of community expectations of the day.

The community also has expectations about the way education and training should be provided. Specifically, it expects that the system will be:

- *Effective* – delivering outcomes of a high standard to students, through effective teaching and quality assessment methodologies;
- *Efficient* – delivering value for public and private funding, with appropriate supporting infrastructure;
- *Flexible* – ensuring community choice between providers that meet appropriate standards; and
- *Transparent* – providing community access to information concerning funding and provider performance.

As elected representatives, governments have specific expectations of education systems and the wider social, cultural and civic role of education and training. These expectations relate both to the outcomes those systems deliver and the manner in which they do so. The following statement of vision and objectives both captures the expectations of governments in OECD countries and is consistent with community expectations outlined above.

Vision

- A society based on a high level of trust, mutual respect and cooperation, underpinned by widely shared democratic values and active citizenship.
- An open and dynamic education and training system that responds to community expectations and needs and provides opportunities for lifelong learning.
- An education and training system that maximises individual opportunities and personal growth.
- A highly educated workforce that can contribute to a strong and competitive economy, built upon innovative and sustainable industries.

Objectives

- Universal completion of education to the end of secondary schooling or its training equivalent.
- Multiple pathways between education, training and work.
- High standards of achievement at all levels of education and training.
- A culture of lifelong learning across the community.
- Community confidence in the range and quality of education and training provision.

The challenge is to translate such a vision and objectives for education and training into more specific principles that will underpin legislation, and the wider policies, processes and practices of all education and training providers.

SECTION 2

The Government's Response to Community Expectations

The Premier's headland speech in October 2000 established goals and targets for education and training in Victoria. It also recognised that all schools, training and higher education institutions, regardless of ownership, need to be involved in raising standards of achievement for Victoria's young people.

Since that time, several Ministerial statements have been issued, covering all facets of education and training and giving effect to the Government's vision for a flexible and dynamic education and training system. Implicit in this reform program has been a recognition of the diversity of educational and training provision in Victoria. Parents have a wide range of choice of institutions in which they can enrol their children. Such diversity maximises the range of post-school education and training opportunities for all school graduates.

In addition, the Government has moved to ensure that parents have access to significant information about the achievements of their children, about the performance of providers and about the overall effectiveness of the education and training system. The information publicly available from the Achievement Improvement Monitor (AIM), the Victorian Certificate of Education (VCE) and initiatives such as the annual *On Track* data about student destinations after leaving school attests to the Government's commitment to providing comprehensive information to Victorians about education and training.

The Government has also supported the expansion of vocational education and training pathways through its commitment to a more flexible and responsive system of Technical and Further Education (TAFE) and through the introduction of the Victorian Certificate of Applied Learning (VCAL).

In this way, the Government's reforms have improved information available to families, improved provider accountability and performance and promoted diversity, innovation and choice.

It is now timely to make sure that education and training legislation, which establishes and regulates our education and training institutions, supports this vision for quality education and training for all Victorians.

SECTION 3

Legislative History

The *Education Act 1958*, a revised version of the original *Education Act 1872*, is the keystone of Victoria's education system. It provides the basis for the right of all Victorians to access school education, separate from religious belief or profit. It also makes the Government and the community jointly responsible for attendance at schools by establishing compulsory schooling to the age of 15 years.

The original Act envisaged a society where a single education system could accommodate all needs. To reflect changes in society and the economy since 1958, successive governments have added to, adjusted and stretched the Act. Such amendments and a raft of separate but related Acts have resulted in voluminous legislation, sections of which are arguably not appropriate to meet the diverse needs and expectations of the community or the policy priorities of government.

The changes to the original Act have added to, rather than clarified, the number and range of structures and mechanisms established by legislation. In some cases, the changes have contributed to confusion and inconsistency. This is particularly true for the regulation of government and non-government schools, which has been the subject of controversy since the original Act established the government school system in 1872. The regulation of non-government schools was given legislative recognition in 1906 with the establishment of the Teachers and Schools Registration Board of Victoria, the antecedent of the present Registered Schools Board. The expansion of the number of non-government schools, their market share and the growing financial support from both Commonwealth and State Governments since the 1970s reinforces the need to look at what quality assurance arrangements across schools and systems are now appropriate to ensure that all students have access to quality education.

The prescriptive and centralist nature of the *Education Act 1958* means that it has not kept pace with the accelerating rate of change in the community. The Act identifies a range of processes and conditions for the operation of the government school system. Much of the detail of the Act is anachronistic in being 'one-size-fits-all' in nature. For example, the Act states that 'in every State school, not being a night school or other special school, four hours at least shall be set apart during each school day for the instruction of the pupils, and of such four hours two shall be before noon and shall be consecutive and two shall be after noon and shall be consecutive.'¹ There are a number of similar examples that demonstrate that a significant portion of the Act is out of touch with current education practice.

Over the last 20 years, legislative change has also occurred in response to increasingly complex agreements with the Commonwealth Government, which has sought to broaden its policy influence in the education and training sector. Additional resources made available to all education and training providers by the Commonwealth Government have necessitated the development of detailed accountability regimes between the State and Commonwealth Governments. In addition, a range of national agreements shape the legislation options available to all jurisdictions in Australia. For example, the *National Goals for Schooling*² informs policy, while the *Australian Quality Training Framework*³ directs regulation.

A contemporary approach to ensure an appropriate legislative framework would be to enact simplified legislation which addresses the rights, needs and responsibilities of government and the community in relation to education and training, but particularly school education.

¹ *Education Act 1958*, Section 22(1)

² See <http://www.mceetya.edu.au/nationalgoals/>

³ See <http://www.anta.gov.au/aqtfWhat.asp>

SECTION 4

Reform of Existing Legislation

Three broad policy principles, derived from contemporary democratic principles, should inform the development of new education and training legislation:

- Equality – all people have the opportunity to access education and/or training;
- Reciprocity – a partnership between the State and its people; and
- Subsidiarity – a presumption in favour of people making their own decisions on matters concerning them or, if that is not possible, allowing a decision-making process where people have the greatest influence possible.

This leads to some crucial design principles for drafting new and simplified legislation that would:

- Legislate only where a statutory support is necessary to achieve an important policy objective;
- Allow for innovation in practice and procedure and for tailoring of responses to individual needs;
- Focus on people not systems; and
- Facilitate integration of services provided by different providers to meet the needs of people.

Principles to drive Victoria's education and training system

The Government is particularly interested in receiving responses about the efficacy of the following principles in driving new legislation for school education.

Free, Compulsory and Secular

A feature of the original *Education Act 1872* was the assurance that the basic education provided by the State would be free; however, from its establishment, voluntary contributions have been sought from families. The *Education Act 1958* makes it clear that 'instruction in the learning areas specified in the Second Schedule shall be free to all pupils (other than overseas students) attending a State school'.⁴ The Second Schedule lists the eight key learning areas presently identified by the Victorian Curriculum and Assessment Authority. More recent practice has dictated that free provision has been extended beyond the age of compulsory schooling to the end of Year 12 by government schools that provide programs to that level.

The *Education Act 1958* contains a legal obligation for parents/guardians to ensure that their children participate in approved school education to the age of 15 years. The terms 'compulsory' and 'post-compulsory' continue to describe a delivery divide within the education and training industry which is not meaningful in 2005, except as a way of assisting the State with child protection obligations. At present, a school age child is defined as 'not less than six nor more than fifteen years of age'⁵ within the *Education Act 1958*, while parental obligations to send their children of the defined age to school are set out in the *Community Services Act 1970*.⁶

4 Section 3 (2), *Education Act 1958*

5 Sections 74 C (1) and 74 D (1), *Community Services Act 1970*

6 Section 24 (3), *Education Act 1958*

Currently, the prescribed leaving age is lower than in most other OECD jurisdictions. There is no evidence, however, that simply raising the leaving age will have a positive effect on increasing retention or quality outcomes for students. There may be a better case for enshrining access to education and training to a certain level of attainment (for example, Year 12 or its equivalent) but not linking it directly to an age cohort. Such an approach would be consistent with the emphasis on increased flexibility of education and training delivery rather than a simple reliance on a single school certificate at the end of 13 years of schooling.

The government school education system established by the original Act was explicitly secular. The *Education Act 1958* provides that 'no teacher within the meaning of this Act shall give any instruction other than secular instruction in any State school building'.⁷ Nevertheless, a number of religious and secular alternative groups have continued to establish and operate their own schools apart from the government system. In addition to recognising non-government schools, it has always been accepted that recognised religious groups can use the facilities of the government school system to provide instruction *outside* those times designated for the provision of the core secular curriculum common across the school system.

Choice, Obligations and Information

Since 1873, the State has recognised the right of community interest groups to offer alternative schooling, provided that certain requirements are met to protect individual students and the community. There has been a substantial expansion of the number of non-government school providers in the past 25 years. Concurrently, there has also been a broad expansion of non-government provision in the training and higher education area. Within the government school sector, zoning regulations have been relaxed and parents now have a degree of choice between schools.

It might be timely for legislation to acknowledge as a threshold principle the right of parents to choose the kind of schooling they wish for their children. One essential corollary of such a principle would be an acknowledgement of the obligation of all education and training providers to operate within the principles of Australian democracy, including those of tolerance, respect for the individual, freedom of speech and freedom of religious affiliation.

For parents to exercise their right of choice and for the community to be assured that public funds are being used appropriately, accurate and comprehensive information about learning outcomes is required. The right of parents, or students themselves, to obtain quality information about both individual student performance and provider performance is a necessary component of the principle of transparency.

Consistency in regulation and quality assurance

Contemporary regulatory regimes applying outside the education sector emphasise adherence to minimum standards. They review performance, through government regulatory agencies, against those minimum standards.

⁷ Section 24 (3), *Education Act 1958*

A similar approach, which might be characterised as 'light touch' regulation, would provide the education and training portfolio with the consistency and flexibility required to improve effectiveness, efficiency and transparency.

All providers, whether public or private, should be subject to the regulatory regime applying to the area of education and training in which they are operating. Public and private providers of training operate within the same broad regulatory framework while government and non-government schools do not. There is a strong case for this inconsistency to be addressed through new legislation.

The application of principles such as choice, obligation and transparency require a consistent approach to registration and review across the education and training system. There is an expectation of minimum standards of registration for all schools to assure the community that its young people, whatever the choice of school, will have access to the right curriculum, right competencies and right values.

In education and training, a registration regime would properly cover a set of minimum standards for providers, such as:

- Inputs – for example, building standards, qualified teachers and trainers, adherence to legislation concerning equal opportunity and racial discrimination;
- Outputs – for example, curriculum programs and provision of services such as work experience, career and course counselling; and
- Outcomes – for example, national literacy and numeracy benchmarks, completion of Year 12 or its equivalent, retention rates and student destinations.

Consistent registration of all education and training providers would be assured by making a single statutory agency responsible for the development and implementation of a registration regime.

Government and non-government schools in Victoria are currently established differently. Government schools are established by the Department of Education & Training to ensure all young people in Victoria can have access to public education. As such, the Department sets up new schools in areas of population growth. Government schools are entitled to a certain level of resources dependent on a formula which takes into account enrolment and student need. In addition, government schools:

- are required to operate under a range of operational directives issued by the Department;
- must adhere to an industrial agreement with the education union, which regulates staff conditions;
- are required to be staffed by teachers registered with the Victorian Institute of Teaching; and,
- are subject to review by the Department.

New non-government schools are established through the Registered Schools Board. The conditions for registration are:

- a minimum enrolment of 20 students (except for special schools and primary schools in identified rural areas);
- buildings certified for occupation as a school and satisfactory premises under the relevant acts and regulations, and as regards drainage, light, ventilation, sanitary or other conveniences for the safety of students;
- appropriate curriculum and resource provision;
- satisfactory standard of instruction;
- registration of all teachers with the Victorian Institute of Teaching, or the permission of the Victorian Institute of Teaching to teach at that particular school;
- at least 50 per cent of the teachers engaged in the instruction of students in the school hold approved tertiary qualifications. The remaining percentage may hold approved tertiary qualifications in any other category; and
- review by the Registered Schools Board once every six years.

An expert body with a statutory basis is the most common method used to regulate service providers in the interest of individual clients and the community. Such an approach to school education would be beneficial for both the government and non-government sectors in clarifying and codifying their responsibilities and assuring quality provision, in the interests of both their own students and of all young Victorians.

Above all, conferring those functions on such a body (whether new or existing) would be in the interests of the general community, which funds the government school system and underwrites non-government schools and systems. The Victorian Curriculum and Assessment Authority (and its predecessors) and the Victorian Institute of Teaching, with their respective responsibilities for curriculum and assessment and teacher registration, provide excellent models of cross-sectoral statutory regulation for schools.

The regulatory body would take responsibility for developing a generic quality assurance framework that would be negotiated with systems and schools. It would be the responsibility of system and school authorities to adopt processes to ensure the quality of teaching and learning in their respective jurisdictions. The statutory authority would audit such processes on a regular basis. This delegated approach would be consistent with the 'light touch' of contemporary regulatory thinking and the principle of subsidiarity. It is consistent with the findings of the *Blueprint for Government Schools*, which acknowledges that schools have differing needs and are at different stages in their development. Such a view is also supported in the analysis of existing arrangements for non-government schools by the recent review of the Registered Schools Board.

Administrative and Policy Framework

The Education and Training Portfolio comprises the Department of Education & Training, seven statutory authorities with statewide responsibilities and a range of school, vocational education and training, adult, community and further education and higher education providers. Existing legislation establishes the roles and

responsibilities of statutory authorities, while the Department is established under the *Public Sector Management and Employment Act 1998* (to be replaced by the *Public Administration Act 2004*).

Statutory Authorities

Seven statewide statutory authorities (see Appendix 2) operate within the portfolio but external to the Department, charged with regulation and quality assurance of education and training delivery. The nature of the relationship between individual statutory authorities, and between the authorities and the Department, has obvious implications for the effectiveness, efficiency and transparency of the education and training system.

Statutory authorities have typically been established in order to provide consistency and objectivity in the regulation and quality assurance of functions that require a high degree of public exposure. They are also a vehicle by which government decisions on policy can be augmented by expert advice and stakeholder interest in an extremely complex area of public policy. As a consequence, the distribution of these functions across the authorities, and the relationship between the authorities and the Department needs to be carefully balanced. The key roles of the existing statutory authorities are:

- **Registration of providers**
 - *Victorian Qualifications Authority*
 - *Registered Schools Board*
- **Accreditation of qualifications**
 - *Victorian Qualifications Authority*
- **Policy development and advice**
 - *Victorian Qualifications Authority*
 - *Victorian Learning and Employment Skills Commission*
 - *Adult, Community and Further Education Board*
 - *Victorian Curriculum and Assessment Authority*
 - *Victorian Institute of Teaching*
- **Resource allocation**
 - *Victorian Learning and Employment Skills Commission*
 - *Adult, Community and Further Education Board*
- **Teacher registration**
 - *Victorian Institute of Teaching*
- **Curriculum and assessment**
 - *Victorian Curriculum and Assessment Authority*
- **Merit protection**
 - *Merit Protection Board*

This Review provides the opportunity for any overlap of function or responsibility of statutory authorities to be addressed in new legislation. In addition to addressing existing arrangements for the registration and quality assurance of school education, the Government welcomes any submissions that might wish to comment on existing roles and responsibilities of statutory arrangements and how they might be clarified or improved.

The Department of Education & Training

The Department of Education & Training is responsible for the funding, provision, regulation and quality assurance of education and training services for all Victorians through schools, TAFE institutes, registered training organisations, adult, community and further education organisations and higher education institutions.

The Department's primary functions include:

- planning, regulating, managing, resourcing and delivering high-quality primary and secondary education in Victoria's system of government schools;
- funding, regulating and liaising with non-government schools in Victoria;
- planning, regulating, resourcing and purchasing training and further education, apprenticeships and traineeships and adult and community education that strengthens the knowledge and skills of all Victorians;
- regulating and administering the legislation governing the provision of higher education in Victoria; and
- providing leadership to a diverse and multi-dimensional education and training system.

The Department also provides support and advisory services to the Minister for Education and Training and the Minister for Education Services as well as a number of statutory bodies. The Department is the principal provider of policy advice in education and training to Ministers.

The relationship between the Department and the statutory authorities of the portfolio may also be the subject of further analysis by the Review.

QUESTIONS

- 1 Should the principle of a free instruction to a certain age or attainment level be affirmed as a guiding principle in new legislation?**
- 2 Should the secular nature of government school provision be affirmed as a guiding principle in new legislation?**
- 3 Should people's right to choose between school education providers, registered or recognised by the Government, be established as a guiding principle in new legislation?**
- 4 Should education and training providers be required through legislation to operate and deliver a curriculum consistent with Australian democratic principles?**
- 5 Should the right of public access to information about provider performance be established as a guiding principle in new legislation?**
- 6 Should the right of parent and student access to information about individual student achievement be established as a guiding principle in new legislation?**
- 7 Should a common and flexible regulation and quality assurance regime be established for all schools?**
- 8 Are there any existing responsibilities of statutory authorities that should be changed?**

INVITATION TO COMMENT

Submissions to this Review are welcome. Responses are particularly invited to the questions listed on page 15, although comments need not be confined to these issues if you think there are other matters that need to be considered.

- Submissions, in writing, can be forwarded to:

**Review of Legislation
Strategic Initiatives Division
Department of Education and Training
GPO Box 4367
MELBOURNE VIC 3001**

or

- Submissions can also be made by email to legrev@edumail.vic.gov.au

The deadline for submissions is **30 April 2005**.

Individuals and organisations should indicate if they wish their submissions to be treated confidentially.

For further information please contact:

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APPENDIX 1

Education and Training Acts

Core Acts

1 Education Act 1958

2 Teaching Service Act 1981

3 Vocational Education and Training Act 1990

4 Adult Community and Further Education Act 1991

5 Tertiary Education Act 1993

6 Victorian Curriculum and Assessment Authority Act 2000

7 Victorian Qualifications Authority Act 2000

8 Victorian Institute of Teaching Act 2001

1. Education Act 1958

This is the main Act covering school education in Victoria. The *Education Act 1958*:

- (i) provides the overall framework for the establishment and operation of government and non-government schools;
- (ii) enables the Minister to establish government schools, close government schools, and change their classification;
- (iii) enables the Minister by Ministerial Order to establish councils of government schools as body corporates, give them extra powers, determine their membership composition and election procedures, and to give instructions to councils;
- (iv) enables the Minister and Secretary to delegate powers, and for the Secretary to assign duties to officers;
- (v) requires the Secretary to keep proper accounts of the cost of administering the Act;
- (vi) gives certain powers to councils of government schools;
- (vii) requires all government schools to have a school charter;
- (viii) vests all property acquired for the Act to be vested in the Minister (except certain limited goods acquired by school councils), and enables the Minister to compulsorily acquire land;
- (ix) governs religious instruction in government schools;
- (x) requires a flag-raising ceremony to be conducted in government schools in accordance with Ministerial Instructions;
- (xi) provides that pupils in government schools can be suspended or excluded from school in accordance with a Ministerial Order;
- (xii) states that instruction to students in government schools shall be free, but that overseas students must pay fees as determined by Ministerial Order;

- (xiii) authorises principals of government schools to refuse enrolments to students above a particular age;
- (xiv) provides for compensation to volunteer school workers who assist in the work of government schools;
- (xv) establishes the Registered Schools Board and the regulatory framework for the registration of non-government schools. (Since 31 December 2003, its former function of registering teachers in non-government schools has been transferred to the Victorian Institute of Teaching.) It also establishes the Registered Schools Board as the body responsible for endorsing non-government schools as suitable for accepting overseas students;
- (xvi) governs the work experience and work placements of students in both government and non-government schools, and authorises the Minister to make Ministerial Orders regulating those matters;
- (xvii) authorises councils of government schools to conduct preschool programs; and
- (xviii) contains some transitional sections dealing with former self-governing schools.

2. Teaching Service Act 1981

This Act covers the terms and conditions of employment for teachers and principals in government schools; authorises the Secretary to investigate and take discipline action against teachers and principals; establishes the Merit Protection Board and authorises the Minister to make Orders covering matters such as wages, leave and other conditions of employment.

3. Vocational Education and Training Act 1990

The main purposes of this Act are:

- (i) to establish the Victorian Learning and Employment Skills Commission and to specify its powers and functions in the promotion, planning, co-ordination and administration of vocational education and training in Victoria and of adult, community and further education in TAFE colleges;
- (ii) to provide for the establishment of TAFE colleges as self-governing institutions forming part of the post-secondary education system;
- (iii) to provide for the establishment or declaration of industry training boards;
- (iv) to provide for the regulation of apprenticeships and other workplace training; and
- (v) to provide for and regulate the practical placements of students of TAFE providers so as to enable those students to obtain general work experience or to receive workplace training.

4. *Adult, Community and Further Education Act 1991*

This Act establishes the framework for adult community and further education. It:

- (i) establishes an Adult, Community and Further Education Board, with functions and powers;
- (ii) authorises the Minister to issue guidelines and directions on Adult, Community and Further Education;
- (iii) establishes Adult, Community and Further Education Regions and Regional Councils;
- (iv) establishes Adult Multicultural Education Services and the Centre for Adult Education as adult education institutions and provides for the governing boards of those adult education institutions;
- (v) provides for the establishment of other adult education institutions and for their governing boards;
- (vi) establishes systems which will enable users and providers of adult, community and further education to advise government on the needs of adult, community and further education and the action necessary to meet those needs; and
- (vi) establishes systems to assist in co-coordinating and planning adult, community and further education in Victoria.

5. *Tertiary Education Act 1993*

This Act provides the framework for the development and coordination of higher education and post-secondary education in Victoria. It prohibits institutions (other than the nine listed in schedule 1 to that Act) from operating as a university or offering university courses unless approved by the Minister. It requires institutions to supply information as requested by the Minister; it authorises the Minister to acquire land for post-secondary education and endorse courses as suitable for overseas students; and it authorises voluntary student unionism.

Section 5(1) requires any university to provide information sought by the Minister for the effective monitoring, development and planning of post-secondary education in Victoria.

6. *Victorian Curriculum and Assessment Authority Act 2000*

This Act establishes the Victorian Curriculum and Assessment Authority with the functions of developing, evaluating and approving curriculum for courses:

- (i) for Years 11 and 12 which are accredited by the Victorian Qualifications Authority; and
- (ii) for other school years, and the delivery of and conduct of assessments for the VCE or any other qualification available to a student in a government or registered school.

The Act states that the Secretary of the Department of Education & Training (or his/her nominee) is a member of the VCAA, and may appoint its staff under the *Public Sector Management and Employment Act 1998*.

7. Victorian Qualifications Authority Act 2000

This Act establishes the Victorian Qualifications Authority with the functions of accrediting, registering and issuing qualifications for post-compulsory education courses (excluding higher education), the recognition of qualifications and the registration of providers.

The Act states that the Secretary of the Department of Education & Training (or his/her nominee) is a member of the VQA and may appoint its staff under the *Public Sector Management and Employment Act 1998*.

8. Victorian Institute of Teaching Act 2001

This Act requires all teachers in schools in Victoria (both State schools and non-government schools) to be registered with the Victorian Institute of Teaching before they can teach in a school. The Act establishes the VIT as a body corporate, and authorises the Minister to approve qualifications and other criteria for teacher registration. It enables the VIT to deregister teachers for inappropriate conduct, and requires teachers to pay a registration fee.

Community Services Act 1970 Division 8A of Part III; and section 203 where it relates to the administration of the above provisions **(The remaining provisions are administered by the Minister for Community Services)**

This Division of the Act contains the provisions dealing with compulsory education. Specifically, it requires parents to send children aged between 6 and 15 years (inclusive) to school unless there is a reasonable excuse. It provides examples of reasonable excuses, and authorises proceedings for breaches of the provisions.

Miscellaneous Acts

1 Mildura College Lands Act 1916

2 Educational Grants Act 1973

3 Education (Special Developmental Schools) Act 1976

4 Serpell Joint Schools Act 1981

5 Baxter Technical School Land Act 1982

6 Royal Melbourne Hospital (Redevelopment) Act 1992 Section 7

7 Marcus Oldham College Act 1995

APPENDIX 2

Statutory Authorities

The current status and functions of the education and training statutory authorities are:

The Victorian Curriculum and Assessment Authority – established in 2000 to develop curriculum for all Victorian schools, assess student learning and monitor student achievement. It is a successor to the Board of Studies, has its own Act and:

- designs the VCE;
- quality assures the VCE and the grades achieved through its assessment system, including the registration of all schools (providers) that deliver the VCE and conduct school-based assessments;
- establishes the Curriculum and Standards Framework, which is used in all government schools and most non-government schools; and
- undertakes further curriculum development.

The Victorian Qualifications Authority – established in 2001 to develop and monitor standards for education and training. The Victorian Qualifications Authority focuses on courses normally undertaken in, or designed to be undertaken, in schooling and training after Year 10; supports appropriate linkages between qualifications; and facilitates procedures that make it easier for people to re-enter education and training and acquire qualifications throughout their lives. It has its own Act and:

- accredits education and training qualifications in the State;
- registers VET and further education providers;
- develops new qualifications;
- issues qualifications; and
- approves the provision of courses to overseas students.

The Victorian Institute of Teaching – established in 2001, the Victorian Institute of Teaching is an independent professional body for the teaching profession. The Victorian Institute of Teaching registers teachers working in Victorian government, independent and Catholic schools. It has its own Act and:

- registers all teachers to ensure only qualified people are employed in Victorian schools;
- works to raise the standing of the profession in the community;
- works with teachers to develop high professional standards;
- provides advice to teachers to assist their professional learning;
- approves teacher education courses that qualify future teachers for entry to the profession; and
- investigates and makes findings on instances of serious misconduct to protect the integrity of the profession.

The Adult, Community and Further Education Board – established in 1992 under the *Adult, Community and Further Education Act 1991*, the Board works jointly with the Victorian Learning and Employment Skills Commission which is responsible for further education in TAFE initiatives, to plan the overall direction and delivery of further education in Victoria. The Board also works with the Victorian Qualifications Authority which is responsible for accreditation of further education courses and registration of providers of those courses. It also:

- plans and promotes adult learning;
- allocates resources for adult, community and further education;
- develops policies for adult, community and further education; and
- advises the Minister for Education and Training on matters related to adult, community and further education.

The Victorian Learning and Employment Skills Commission – established in 2000 has a broad advisory role to government on post-compulsory education, training and employment to provide policy advice in relation to post-compulsory education and training and to perform functions carried over from the former State Training Board. It is established inside the *Vocational Education and Training Act 1990* and has specific responsibilities under the Australian National Training Authority (ANTA) Agreement between Victoria and the Commonwealth and:

- is the State training agency and executes responsibility for the State training system within the context of its broader role;
- allocates funding for training and further education;
- regulates the apprenticeship and traineeship system;
- monitors the outcomes of post-compulsory education and training;
- supports the Local Learning and Employment Networks; and
- provides policy advice to the Minister on post-compulsory education and training.

The Registered Schools Board – has its antecedents from 1906 with the establishment of the Teachers and Schools Registration Board. The Board is established inside the *Education Act 1958* and:

- registers new non-government schools on the basis of defined criteria, including facilities, curriculum, teacher qualifications, student numbers and welfare policies;
- reviews all non-government schools on a cyclical basis defined by legislation; and
- endorses non-government schools to provide education to full-fee paying overseas students.

The Merit Protection Board – established in 1993 to provide advice to Ministers and Secretary about principles of merit and equity to be applied in the teaching service and any matter referred to them relating to merit and equity in the teaching service. The Merit Protection Board is established inside the *Teaching Service Act 1981* and:

- hears reviews, appeals and grievances in relation to decisions made under the *Teaching Service Act 1981*;
- hears reviews, appeals and grievances in relations to non-teaching employees of the Department and associated statutory authorities; and
- advises the Minister or the Secretary about any matter referred to them relating to merit and equity in the teaching service.

This phase of the Legislative Review needs to explore how legislation can better clarify the roles of the seven statutory authorities in relation to each other and also to the Department.

NOTES

Review of Education and Training Law

Education and Training Law
Review of Education

Legislation discuss

Review of Education and Training Legislation
Education and Training Legislation
Review of Education
Legislation discussion