

1984

The Parliament of the
Commonwealth of Australia

Commonwealth Schools Commission Amendment Bill 1984

Explanatory Memorandum

(Circulated by authority of
the Minister for Education
and Youth Affairs, Senator
the Hon Susan Ryan)

OUTLINE

COMMONWEALTH SCHOOLS COMMISSION AMENDMENT BILL 1984

The primary purpose of this Bill is to put into operation the Government's commitment to re-activate the Curriculum Development Centre within the administrative structure of the Commonwealth Schools Commission. By this means the Commonwealth will have the capacity to provide schools and school systems with useful information, materials and expertise. The legislation will also strengthen the integral relationship between curriculum issues, research priorities and the funding and program responsibilities of the Commonwealth Schools Commission.

To achieve its primary purpose the Bill repeals the Curriculum Development Centre Act 1975 and in doing so abolishes the existing Curriculum Development Centre as a statutory authority. The assets and liabilities of the existing Centre are to be vested in the Commonwealth and will be administered by the Commonwealth Schools Commission.

The legislation will establish a new Curriculum Development Council, reporting to the Minister, which will work in close consultation with the Commonwealth Schools Commission. The Chairman of the Commission will have Permanent Head powers in relation to staff appointed under the Public Service Act 1922 to assist both the Commission and the new Curriculum Development Centre Council.

In addition to the primary purpose of the Bill, the legislation also updates general provisions in the Commonwealth Schools Commission Act 1973 to take account of current legislative practices. The legislation also provides authority for the Commission to inquire into, and to furnish information and advice to the Minister, with respect to matters affecting the education of handicapped children who have not attained school age.

CLAUSES OF THE BILL

PART 1 PRELIMINARY

Clauses 1 and 2 provide for the citation of the Act and that it is to come into operation on a date to be proclaimed.

PART 11 REPEAL OF THE CURRICULUM DEVELOPMENT CENTRE ACT 1975

Clause 3 Interpretation

Definitions relating to the repeal of the existing Act are specified.

Clause 4 Repeal

Formally repeals the existing Curriculum Development Centre Act 1975

Clauses 5, 6 and 7 Financial Statements

As a consequence of the repeal of the Curriculum Development Centre Act 1975, the existing statutory authority titled the Curriculum Development Centre will cease to exist. The existing Curriculum Development Centre Act 1975 requires the statutory authority to prepare annual financial statements and for these to be tabled in Parliament after, and together with, an audit report by the Auditor-General. Following abolition of the statutory authority, no statutory body will exist which would have responsibility for preparing financial statements on the activities of the Centre since its last financial statements were audited and presented to Parliament.

To ensure financial statements are prepared, audited, and presented to Parliament in respect of the period from when the statements were last prepared and presented to Parliament to the date the statutory authority ceased to exist, Clauses 5, 6 and 7 require the Minister to have the statements prepared, the Auditor-General to report upon them and for the reports to be laid before each House of the Parliament.

Clause 8 Officers Rights Declaration Act

This clause provides the standard protection of employment rights for the Director of the existing Centre. The Office of Director is a statutory appointment under the existing Curriculum Development Centre Act 1975.

Clauses 9, 10 and 11 Winding up of Centre

These clauses make arrangements for the assets and liabilities of the existing Centre to be transferred to the Commonwealth. Provision is made for the Commonwealth to be substituted for the statutory authority in relation to contracts and proceedings before a court or tribunal.

Clause 10 provides specifically for moneys to be paid out of the Consolidated Revenue Fund to enable the Commonwealth to discharge the debts, liabilities and obligations of the former statutory authority.

Clause 11 exempts the payment of taxation or stamp duty for any purpose connected with or arising out of the winding up of the Centre.

PART III AMENDMENT OF COMMONWEALTH SCHOOLS COMMISSION ACT 1975

Clauses 12, 13 and 14

The long title of the Principal Act (that is, the Commonwealth Schools Commission Act 1973) is extended by making reference to and including the Curriculum Development Council. The short title will remain the Commonwealth Schools Commission Act 1973. The Principal Act is also to be divided into 4 parts -

- Part I Preliminary
- Part II The Commonwealth Schools Commission
- Part III The Curriculum Development Council
- Part IV Miscellaneous

Clause 15 Part I of Principal Act

Defines terms used in other parts of the Bill.

Clauses 16 to 23 Part II of the Principal Act.

These clauses deal with amendments to the legislation covering the Commonwealth Schools Commission.

Clause 16 Interpretation

Amends definitions to clarify the interpretation of this part of the Principal Act.

Clause 17 Establishment of Commission

Two standard sub-clauses are added which provide

- . that the Commission may function if there are vacancies in the Commission's membership

- . that the validity of the actions of a member of the Commission are not to be questioned on the basis of a defect or irregularity in connection with the appointment of the member.

Clause 18 Full-time members

Sub-section (3), which deals with now superceded superannuation arrangements, is deleted.

Clauses 19 and 20 Appointments and Acting Appointments to the Commission

The existing provisions are updated to provide for the remuneration of Commissioners to be determined by the Remuneration Tribunal and for other terms and conditions of employment to be determined by the Governor-General.

Clause 21 Resignation of Commissioners

The existing provision relating to resignation of Commissioners is updated to provide for Commissioners or Acting Commissioners to resign their Office in writing delivered to the Minister.

Clause 22 Functions of the Commission

- (a) update existing provisions in relation to the and Northern Territory so that it is treated similar
- (b) to a State; these paragraphs also more clearly specify the functions of the Commission.
- (c) adds an additional function of the Commission enabling it to inquire into and to furnish information and advice to the Minister with respect to matters affecting the education of handicapped children who have not attained school age.

Clause 23 - Part 111 of the Principal Act

This Part provides for the Curriculum Development Council.

Through Clause 23 additional clauses 14A to 14Q are to be added to the Principal Act.

"Clause 14A" Interpretation

This clause defines the terms used in this Part of the Principal Act.

"Clause 14B" Curriculum Development Council

This clause establishes the Council which is to comprise part-time members appointed by the Governor-General. The Council is to comprise

- (a) a Chairman, being a full-time Commonwealth Schools Commission member;
- (b) 3 members nominated by the Minister, being Commonwealth Schools Commission members;
- (c) such number of further members nominated by the Minister, being not more than 5, as the Minister determines;
- (d) 2 members nominated by the Australian Education Council, being persons having expertise in curriculum development for schools;
- (e) 2 further members nominated by the Australian Education Council; and
- (f) a member, being the Permanent Head of, or a Deputy Secretary in, the Department.

"Clause 14C" Acting Appointments to the Curriculum Development Council

Provision is made for the Minister to appoint an acting Chairman and acting members of the Curriculum Development Council.

The acting appointments may be made by the Minister when there is a vacancy in an Office or when a member is unable to attend a meeting. No person may act for longer than 12 months. The Minister may determine the conditions of employment and remuneration. The Minister may terminate acting appointments at any time. An acting Chairman or acting member may resign at any time in writing, delivered to the Minister.

Acting Chairman and acting members can exercise the full powers of Chairman and members.

Technical defects in the acting appointment of the Chairman or a member do not invalidate actions taken by these persons.

"Clause 14D" Employment of Members of the Curriculum Development Council

Provision is made for the Remuneration Tribunal to determine remuneration for members. The Governor-General is able to determine terms and conditions of employment not covered by the Tribunal.

"Clause 14E" Leave of absence for members of the Curriculum Development Council

Provides for the Minister to grant leave to members and to determine conditions.

"Clause 14F" Disclosure of interests by members of the Curriculum Development Council

A member who has a direct or indirect pecuniary interest in a matter being considered by the Council is required to disclose the interest to a meeting of the Council. A member with such an interest is not able to take part in the relevant Council business unless the Minister or Council otherwise determine.

"Clause 14G" Termination of Appointment of Council Members

The Governor-General may terminate the appointment of a member by reason of misbehaviour.

The Governor-General is to terminate the appointment of a member if the member becomes bankrupt or makes use of bankruptcy arrangements; is absent without leave from 3 consecutive meetings of the Council or does not, without reasonable excuse, disclose his or her pecuniary interests.

"Clause 14H" Resignation of members of Council

A member may resign his Office, in writing, delivered to the Minister.

"Clause 14J" Meetings of Council

This clause details the procedures for convening meetings, the conduct of meetings and requires the Council to keep records of its meetings.

"Clause 14K" Functions of Council

The functions of Council are:

- (a) to inquire into, and to furnish information and advice to the Minister with respect to matters relating to -
 - (i) the devising and development of school curricula and school educational materials; and
 - (ii) national school curriculum issues;
- (b) to devise and develop, and to promote and assist in the devising and development of, school curricula and school educational materials;
- (c) to undertake, promote and assist in research into matters related to school curricula and school educational materials;

- (d) to arrange for the printing and publication of, and of information relating to, school curricula and school educational materials;
- (e) to make available or supply, subject to the payment of reasonable charges, school curricula and school educational materials;
- (f) to collect, assess and disseminate, and to promote and assist in the collection, assessment and dissemination of, information relating to school curricula and school educational materials;
- (g) to advise the Minister in relation to -
 - (i) the exercise of the Minister's powers in relation to grants to the States for curriculum projects; and
 - (ii) the making of agreements with an institution or person in a Territory in relation to curriculum projects;
- (h) to act on behalf of the Commonwealth in or in connection with matters relating to school curricula or school educational materials;
- (j) to publish reports on projects being undertaken, or to be undertaken, by the Council; and
- (k) to do anything incidental or conducive to the performance of any of the foregoing functions.

The Clause also requires the Council in the performance of its functions, to consult and co-operate with -

- (a) the Commonwealth Schools Commission;
- (b) representatives of the States;
- (c) authorities in the Australian Capital Territory responsible for primary or secondary education in that Territory; and
- (d) persons, bodies and authorities conducting non-government schools in Australia.

The Council may also consult with such other persons, bodies and authorities as it thinks necessary.

The Council is to perform its functions and exercise its powers in accordance with any directions given by the Minister.

"Clause 14L" Grants to the States in connection with approved curriculum projects

Provision is made for the Minister to approve:

- . curriculum projects to be undertaken by States
- . grants to States in relation to those projects

The clause sets out conditions applicable to these grants and the accountability requirements.

The conditions and accountability requirements are based on provisions in the States Grants (Schools Assistance) Act 1983.

"Clause 14M" Payments for approved curriculum projects to institutions etc in a Territory.

Provision is made for the Minister to authorise agreements, including provisions for payments, being made on behalf of the Commonwealth, with institutions or persons in a Territory in relation to curriculum projects.

"Clause 14N" Moneys to be appropriated

Moneys for the grants to the States or for payment of curriculum payments are not appropriated by this legislation. They are to be appropriated by budget appropriation legislation.

"Clause 14P" Reports

Requires the Council to furnish the Minister with an annual report and for the Minister to table the report in Parliament.

The Council shall also furnish the Minister with any reports the Minister requires and the Council may furnish the Minister with other reports it considers necessary.

The Council is required to furnish a copy of its reports to the Minister and to the Commonwealth Schools Commission. The Commission may, and shall if required by the Minister, furnish the Minister with advice or comments in relation to the reports.

"Clause 14Q" Part IV of Principal Act

In this part, Chairman of the Commission includes an Acting Chairman

"Clause 24" Staff

Staff to serve both the Commonwealth Schools Commission and the Curriculum Development Council are to be appointed under the Public Service Act 1922. The Chairman of the Commission has the powers of a Permanent Head for the purposes of the Public Service Act.

Provision is also made for the Chairman to engage employees outside the Public Service Act to assist the Council.

The clause also includes provisions to enable employees of Commonwealth authorities and employees of a State to be engaged to assist the Council implement its functions.

Clause 25

"Clause 17" of Principal Act Committees

The Minister may, at the request of the Commonwealth Schools Commission or the Curriculum Development Council, appoint committees to assist either the Commission or Council.

Committee members do not have to be members of the Commission or Council.

Members of committees are to receive remuneration subject to the Remuneration Tribunal. The Minister may determine other terms of employment not provided for by the Tribunal.

Clause 26 Annual Report

The Commonwealth Schools Commission is required to prepare annual reports for the Minister in respect of both its operations, and the operations of the Curriculum Development Council.

The Minister is required to table the annual reports in Parliament.

Clause 27 Delegation by Minister

The Minister may delegate to the Chairman of the Commonwealth Schools Commission the Minister's powers under the legislation

- . to grant leave to members of the Commission or the Curriculum Development Council. However, the Chairman cannot approve his own leave.
- . in relation to approval of and payments for curriculum projects to be undertaken by States or bodies in Territories.
- . to make arrangements with a State for an employee of a State to perform services for the Curriculum Development Council.



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