

REVIEW OF *EDUCATION AND EARLY CHILDHOOD SERVICES (REGISTRATION AND STANDARDS) ACT 2011*

TERMS OF REFERENCE

PURPOSE

To consider and review the *Education and Early Childhood Services (Registration and Standards) Act 2011* (the Act) and the regulations, and outline potential options for reform, ensuring that the legislation remains effective, modern and fit for purpose.

BACKGROUND

Since 2012, the Act has provided the basis for regulation of South Australia's government and non-government sectors, as well as adopting the *Education and Care Services National Law Act 2010* which provides the basis for regulation of the South Australian early childhood education and care sector.

The Act commenced on 1 January 2012, establishing the Board as the regulatory body. The Act provides that the Board is comprised of 13 members, appointed by the Governor on nomination of the Minister, being persons who collectively have, in the opinion of the Minister, the knowledge, skills and experience necessary to enable the Board to carry out its functions effectively.

The Act also provides that there will be three Registrars, being the Government Schools Registrar, the Non-Government Schools Registrar and the Early Childhood Services Registrar, with Registrars appointed by the Board on terms and conditions determined by the Board. In practice a single Chief Executive fulfills the roles of all three Registrars.

At the time of commencement, all schools operating were deemed registered and were issued a certificate of registration. While the Act provides a process to review the registration of schools, a process for review of registration was not implemented until 4 July 2017, with an amendment of the regulations to prescribe requirements for reviews against the standards.

In December 2024, the Minister for Education, Training and Skills announced his intentions to review the Act in 2026, seeking to modernise the legislation to support the sectors into the future, with an advisory group, comprising of all three schooling sectors in South Australia, being established to inform this review.

As well as the Minister's announcement there has been a significant focus nationally surrounding child safety. Specifically, the review will consider the outcomes of the Royal Commission into Institutional Responses to Child Sexual Abuse, Royal Commission into Early Childhood Education and Care and Royal Commission into

Violence, Abuse, Neglect and Exploitation of People with Disability and the most recent Royal Commission into Domestic, Family and Sexual Violence.

PREVIOUS REVIEWS

In 2015, then Minister for Education and Child Development, the Hon Susan Close MP, appointed Mr John Dawkins AO, then Presiding Member of the Board, to lead a review of the regulator's operations and the implementation of standards for schools (the Dawkins Review). The Dawkins Review was completed in 2016 and was undertaken with a view to move the regulator towards a more risk-based contemporary approach to the regulation and quality assurance of the provision of education services.

The Dawkins Review resulted in a number of structural and operational changes to the Board, including:

- Abolishing standing and ad-hoc committees of the Board and redefining functions of others to redirect the Board's focus back to strategic matters.
- Appointing a single person to the three Registrar positions established under the Act with the title of Chief Executive and Registrar.
- Delegating of the Board's regulatory powers and functions, where possible, to the Registrar and senior managers.
- Establishing a new trading name and visual identity.
- Amending existing regulations to prescribe standards for the registration, review and endorsement of schools.

It has been almost decade since a review of the legislation has occurred and it is important to undertake this review to ensure that South Australia has modern and contemporary legislation.

MATTERS TO BE CONSIDERED BY THE REVIEW

The review will encompass all aspects of the legislation and the outcomes of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. Expanding the effectiveness and efficiency of the provisions of the Act in supporting appropriate inclusive practices for students with disability in all South Australian schools. The review will also consider the significant national work being undertaken relating to the child safety review and the most recent recommendations of the Royal Commission into Domestic, Family and Sexual Violence.

It will be important the review looks at the ability to streamline and simplify the legislation to ensure that the structure of the legislation allows for flexibility into the future. Specifically considering the aspects of the legislation that are required to be outline in the Act and those that are better served in regulation.

Several key areas of focus for the review include, but not limited to:

BOARD GOVERNANCE

- Assess the Board's powers, ensuring the regulator is effective and efficient in taking proportionate action.
- Consider the Board's composition to ensure it is consistent with the contemporary standards for government boards and properly supports the regulatory functions of the Board.
- Consider the governance relationship between the Board and the operations of the ESB
- Consider name of the ESB to clarify separation between Board and Executive functions and to better reflect the agency's breadth of operations to the community.

REGULATORY PRACTICE

- Modernising the regulatory functions of the regulator to be in line with best practice principles.
- Review the current legislation surrounding registration processes.

REGULATORY POWERS

- Strengthen offence provisions to better protect children and young people.
- Enhance the regulator's ability to collect information, to ensure that there is quality and compliance through regular monitoring.
- Implement contemporary provisions to address compliance concerns and improve oversight of regulated parties' operations.

INFORMATION SHARING

- Improve information sharing provisions for inter-agency information sharing.
- Better enable the regulator to advise the community of concerns surrounding safety and quality issues.

REGISTRAR FUNCTIONS

- Reassess the current arrangements, where there are three Registrar roles within the Act.

COMPLAINTS

- Consideration of complaints processes, including complaints relating to students with disability and oversight of complaint outcomes.

The review will not look to review items identified in the Act relating to the National Law. Changes to these items will be identified through national partnerships and agreements across the jurisdictions.

THE REVIEW PROCESS

1. The review will be led by an independent reviewer and supported by a secretariat.
2. The review and selection of the independent reviewer will be assisted by an advisory group, established by the Minister, to improve outcomes of the review.
3. The review will invite submissions from the public and consult with stakeholders.
4. The reviewer will provide a report to the Minister for Education, Training and Skills by 18 December 2026.