

# SCHOOL BOARDING FACILITIES LEGISLATION AMENDMENT AND REPEAL BILL 2015

## EXPLANATORY MEMORANDUM

### Overview

The Bill provides for the abolition of the Country High School Hostels Authority (Authority) and the functions of the Authority to be undertaken by the Department of education through the authority of the Minister for Education.

### Part 1 - Preliminary

#### **Clause 1. Short title**

The short title is the *School Boarding Facilities Legislation Amendment and Repeal Act 2015*.

#### **Clause 2. Commencement**

Part 1 will commence upon Royal Assent and the remainder of the provision on a day fixed by proclamation.

### Part 2 – Country High School Hostels Authority Act 1960 and regulations repealed

#### **Clause 3. Country High School Hostels Authority Act 1960 repealed**

The *Country High School Hostels Authority Act 1960* is repealed.

#### **Clause 4. Regulations repealed**

The *Country High School Hostels Authority Act Regulations 1960* and the *Country High School Hostels Authority Act Regulations 1962* are repealed.

### Part 3 – School Education Act 1999 amended

#### **Clause 5. Act amended**

The *School Education Act 1999* (SEA) is amended in specific sections and a new Part 6A is inserted by Clause 11.

#### **Clause 6. Long title amended**

The long title of the SEA is amended by deleting the 5<sup>th</sup> dot point and replaced with the words 'for the establishment and administration of student residential colleges'.

#### **Clause 7. Section 3 amended**

A new object is added to section 3 at paragraph (e) which is to provide for student residential colleges that offer residential accommodation for students to attend, and participate in an educational programme of, a school.

#### **Clause 8. Section 4 amended**

A new term is added to section 4 for a *student residential college*.

#### **Clause 9. Part 2 heading replaced**

A new heading that better reflects the content of Part 2 replaces the existing heading.

## **Clause 10. Section 129 amended**

This clause addresses an incorrect reference in the section.

## **Clause 11. Part 6A Student residential colleges inserted**

A new Part 6A for student resident colleges is inserted into the SEA that provides for:

- the establishment of student residential colleges (Division 2);
- the administration of student residential colleges (Division 3);
- local input networking and communications committees (LINC committees) for student residential colleges (Division 4);
- provisions for the management of college funds and funds appropriated by Parliament for student residential colleges (Division 5).

### **Division 1 — Preliminary**

213A. Terms used in Part 6A

### **Division 2 — Establishment of student residential colleges**

The division provides for establishing, closing or amalgamating student residential colleges.

### **Division 3 — Administration of student residential colleges**

#### **Subdivision 1 — Operation and management of colleges**

213D - The Minister is responsible for the operation and management of student residential colleges, including the standard of care provided to students at student residential colleges.

213E - The Minister has the power to perform his or her functions for student residential colleges including powers of a corporate nature. In exercising any power the Minister may act in conjunction with any person or firm, or a public authority; or any department of the Public Service or any agency of the State or the Commonwealth.

213F – One of the corporate powers of the Minister has is to enter into a business arrangement, however, before the Minister exercises this power, he or she must seek the Treasurer’s approval.

213G - Where a sub-delegate enters an agreement or arrangement for advertising or sponsorship any money payable is to be credited to the General Purposes Fund of the college.

213H – This section provides authority to deal with non-student disruption and to stop the dissemination of particular information at a student residential college.

#### **Subdivision 2 — Regulations and code of conduct**

213I - Regulations may be made about:

- (a) an accommodation agreement;
- (b) costs and charges payable;
- (c) health and safety of students;
- (d) operation and management including:
  - (i) application for places;
  - (ii) use of facilities and services;
  - (iii) the means by which disputes or complaints can be dealt with.

The regulations for dealing with disputes and complaints may:

- (a) confer authority on the Minister to make provision, by instrument published in the *Gazette*; and
- (b) confer protection on persons in respect of statements made or information given; and
- (c) provide for the powers that may be exercised in connection with the investigation and resolution of disputes and complaints.

The scheme for dealing with disputes and complaints replicates the scheme applicable to government schools under section 118.

213J - The Minister is to prepare and issue a code of conduct for students that sets out minimum standards of conduct to be observed at a student residential college. A code of conduct can set general principles to guide behaviour or make specific provision for a particular student residential college. The Minister may consult with any, or all, of the LINC committees before issuing a code of conduct.

### **Subdivision 3 — Power of Minister to grant licences**

213K - The Minister may grant a licence for the use of tangible property providing it does not adversely affect safety or welfare or interfere with the normal operations of a college. A licence may be granted for up to 5 years by the Minister or delegate and up to 2 years by a sub-delegate.

Alternatively, a licence can be granted for a joint arrangement for property that can determine how the property will be controlled, managed or shared. In contrast to the other licences, a joint arrangement licence is limited to purposes that are complimentary and beneficial to student residential colleges. There is no limitation on the term of a joint arrangement.

213L - Where a licence under section 213K relates to a particular student residential college the money is to be credited to the General Purposes Fund of the college.

### **Division 4 — LINC committees**

213M - Each college is to have a local input networking and communications committee (*LINC committee*).

213N - A LINC committee is to be constituted by not less than 4 or more than 10 members appointed for up to 3 years by the chief executive officer with the membership drawn from —

- (a) parents of students at the college; and
- (b) other members of the general community; and
- (c) any person employed at the college.

Parents and community members must form the majority of the membership.

213O - A LINC committee is an advisory body with the following functions:

- provide advice regarding the operation and management of the college;
- promote the interests of the college and to foster community interest in the college;
- approve an arrangement for advertising or sponsorship;
- provide feedback on the code of conduct; and
- undertake other functions that may prescribed.

A LINC committee can:

- (a) take part in and provide advice on the selection, but not the appointment, of any person employed at the college,
- (b) provide advice as to the means by which disputes or complaints about the conduct of students at the college may be dealt with;
- (c) take part in the planning of, and provide advice on, the financial arrangements and priorities for the college.

A LINC committee cannot:

- (a) intervene in the operation or management of a student residential college; or
- (b) exercise authority over any person employed at a student residential college.

213P - Regulations may be made in respect of LINC committee proceedings and membership.

#### **Division 5 — Financial provisions**

Subdivision 1 provides for the means by which money will be managed at a student residential college. Subdivision 2 provides for the means by which funds will be managed for the network of student residential colleges.

#### **Clause 12. Section 216 amended**

The amendment remedies a defect in the section.

#### **Clause 13. Section 218 amended**

The amendment provides for a distinction between licences for the use of school property and premises and student residential colleges.

#### **Clause 14. Section 227 amended**

The amendment means that acts and things done by the Minister under Part 6A for student residential colleges are reported in the same way under the *Financial Administration Act 2006* as acts and things done by the Minister for government schools under Part 6 Division 1.

#### **Clause 15. Section 228 amended**

The amendment provides that the Department of Education assists the Minister with administration of the Act, including dealing with non-government school student accommodation at a student residential college.

#### **Clause 16. Section 240 amended**

The amendment provides a child protection mechanism applicable to government schools to also apply to student residential colleges. The amendment gives the Chief Executive authority to order a person employed at a student residential college who may have committed misconduct to leave the premises and remain away until the matter is resolved.

#### **Schedule 1 – Transitional provision**

#### **Clauses 17 to 19. Schedule 1 amended**

The word Schedule is substituted with Division.

**Clause 20. Division 4 — Transitional provisions for the *School Boarding Facilities Legislation Amendment and Repeal Act 2015***

33. Terms used
34. Each hostel will cease to be a hostel and become a student residential college.
35. Hostel land will cease to be under the control of the former Authority and will be under the control of the Minister.
36. The former Authority is abolished and its members go out of office.
37. Each staff member of the former Authority will become a person employed in the Department of Education in accordance with any relevant industrial award or agreement applying to the staff member immediately before commencement day.

The transition to the Department of Education does not —

- (a) affect the person's remuneration; or
- (b) affect the person'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 person's service.

The staff member's service with the former Authority is to be taken to have been with the Department of Education.

38. The assets and rights of the former Authority vest in the Minister and any liabilities of the former Authority become the liabilities of the Minister. Likewise, any proceedings or remedy of the former Authority is available to the Minister.

Any account maintained by the former Authority must be closed by the Minister and the moneys in the account credited to the Student Residential Colleges Fund.

- 39-44. These transitional provisions deal with:

- completion of things commenced;
- continuing effect of things done;
- exemption from State tax;
- agreements, instruments and documents;
- registration of documents; and
- savings.

45. If there is no sufficient provision in the Division for dealing with a transitional matter, regulations may be made prescribing all matters that are required or necessary or convenient to be prescribed for dealing with the matter.