

Education Legislation Amendment Bill 2013

Explanatory Notes

Short title

The short title of the Bill is the Education Legislation Amendment Bill 2013.

Policy objectives and the reasons for them

The Bill will:

- support implementation of the move of Year 7 to secondary school from 2015;
- include the Preparatory year (Prep) in a state school student's basic allocation; and
- allow for the cancellation of the enrolment of international students at state schools for non-payment of fees.

Move of Year 7 to secondary school

The *Education (General Provisions) Act 2006* (the EGPA) defines *primary education* as Prep to Year 7. *Secondary education* is defined as Year 8 to Year 12. To meet the Queensland Government's commitment to move Year 7 to secondary school the Bill makes a number of technical amendments to Education portfolio legislation to define Year 7 as secondary education from 2015. Amendments are also required to provide transitional arrangements to reduce administrative burden that might ordinarily have applied to non-state schools to change their accreditation status under the existing legislative framework.

Recognise Prep as the first year of schooling

Enrolment and full-time attendance in Prep are considered essential to enable students to take full advantage of the Australian Curriculum and develop the set foundation skills, knowledge and understanding for this level of schooling. All students attending Queensland state schools are entitled to an allocation of State education – a basic allocation. Currently, students have a basic allocation of 24 semesters, commencing in Year 1. Prep is not currently included in state school the basic allocation for state school students.

The Bill includes Prep in a state school student's basic allocation to recognise Prep as the first year of schooling and ensures the basic allocation of sufficient semesters for a student to complete Prep to Year 12. Principals in state schools already

advocate for enrolment and attendance in Prep as a child's first year of schooling. The recognition of Prep as the first year of school in legislation aims to maximise attendance and achievement so children get the best start in school.

This is a symbolic amendment to reflect that Prep is the first year of schooling and the Government's commitment to provide 13 years of state education – Prep to Year 12.

Cancel enrolment of international students for non-payment of tuition fees

A student who is not an Australian citizen or permanent resident, or a child of an Australian citizen or permanent resident (an international student), is required under the EGPA to pay fees for state school education. Other Australian states and territories charge similar fees.

To support families in financial hardship, fees can be exempted or waived, or payment plans can be entered into, to enable payment of fees over a period of time.

The Department of Education, Training and Employment's (the Department) current fee charging practice for international students varies depending on the immigration status of the child and their parent, for example:

- refugee families are not charged for state education;
- children of asylum seekers in community detention are financially supported by the Australian Government - this funding is managed by the Department through Education Queensland International;
- once asylum seekers in community detention move to bridging visas, they are not subject to fees (bridging visas usually only last a short time before a residency visa is granted and education is offered for free);
- dependants of temporary skilled migrants on skilled migrant visas do not pay fees;
- students entering Australia on a New Zealand passport do not pay fees;
- students on student visas (commercial students) are charged tuition fees; and
- dependant students, i.e. the children of people who come to Australia to study a vocational or higher education qualification who enrol their children in state schools may be required to pay tuition fees dependant on their visa subclass.

These arrangements will not change as a result of the Bill.

The Department has experienced difficulty in recouping tuition fees from parents of dependant students, with over \$1.5 million currently outstanding. It is a requirement that these people enrol their children in school according to their current visa. When applying for an international student visa they must prove to the Commonwealth Department of Immigration and Citizenship that they have sufficient funds to pay school fees during their stay in Australia before they are granted a visa. However, the experience has been that after the first year of enrolment many of these parents

ignore the requirement to pay as there is no power to cancel enrolment for failure to pay fees.

The Department's use of civil mechanisms to recoup outstanding fees, such as debt collection, has not been effective. Most students only attend Queensland schools for two to three years and many have left the system by the time the Department has exhausted civil enforcement options.

The Bill enables the Director-General of the Department to cancel the enrolment of international students for the non-payment of fees.

Achievement of policy objectives

Move of Year 7 to secondary school

The Bill amends the EGPA to define primary education as Prep to Year 6, and secondary education as Years 7 to 12, commencing on 1 January 2015. The Bill also makes minor consequential amendments to other Education portfolio legislation to align definitions of primary and secondary education with the EGPA from 2015.

The Bill provides a streamlined process to reduce administrative burden on non-state schools that need to change their accreditation status to offer Year 7 as secondary education from 2015. The Bill assists non-state schools in the following scenarios:

- (i) stand-alone secondary schools delivering Year 8 (such as Year 8 to Year 12) adding Year 7;
- (ii) combined primary and secondary schools (such as Prep to Year 12) to deliver Year 7, as secondary education; and
- (iii) stand-alone primary schools delivering Year 7 (such as Prep to Year 7) retaining Year 7 but delivering it as secondary education.

The governing body of a school in scenario (i) or (ii) will be able to change the school's accreditation arrangements simply by notifying the Non-State Schools Accreditation Board (the Accreditation Board) that the school proposes to deliver Year 7 as secondary. If a school in scenario (i) or (ii) is currently eligible for Government funding for provision of Year 8, the Bill provides that it will be automatically eligible for Government funding for delivery of Year 7 as secondary education from 2015.

Under the streamlined notification process the school's ability to meet the accreditation criteria, and eligibility for Government funding, will not need to be assessed. This is appropriate given eligible schools are those already offering secondary education (at least for Year 8). The transitional amendments will ensure these schools do not need to go through the usual application processes to change attributes of their accreditation and, if required, seek Government funding eligibility for the changed attribute. This process which involves an application, assessment by

the Accreditation Board against accreditation criteria, and public notification regarding funding eligibility, can take over seven months. It is anticipated the streamlined notification process will reduce the Accreditation Board's processing time significantly.

To utilise the notification processes proposed in the Bill a school must commence delivery of Year 7 as secondary education on or after 1 January 2015 and before 1 March 2016. A school cannot, through the notification processes, seek to add a new attribute of accreditation, for example; moving from a single sex school to a coeducational school; adding a new site at which the school provides education; or providing boarding facilities not previously provided. Those changes would require a full assessment of compliance with accreditation criteria and Government funding eligibility. Accordingly, schools looking to make such changes will need to seek the usual approvals from the Accreditation Board for accreditation and the Minister for funding eligibility.

From 2015, primary schools cannot continue to deliver Year 7 as primary education. A stand-alone primary school, that is, a school in scenario (iii) wishing to continue to offer Year 7 from 2015, will have to do so as secondary education. For example, schools in regional and remote parts of Queensland may choose to retain Year 7.

As the school would be providing Year 7 under a revised curriculum model requiring different facilities and staff, the governing body will need to apply for accreditation as a secondary school for delivery of Year 7 from 2015. However, the amendments streamline the process for schools that are currently eligible for Government funding for the delivery of Year 7. These schools will automatically be eligible for Government funding for the delivery of Year 7 as secondary education from 2015 and avoid the usual public notification process.

Recognise Prep as the first year of schooling

The Bill amends the basic allocation under the EGPA for state school students to include adequate semesters necessary for completion of Prep to Year 12, that is, 26 semesters or 13 years of schooling. This technical amendment will not affect the current policy that enrolment in Prep is not compulsory.

The Bill includes new provisions clarifying a student's *remaining allocation*. Primarily this amendment is proposed to remove transitional arrangements relevant for the introduction of basic allocation in 1997.

The Bill provides that for a student who had a basic allocation, and has continued enrolment in a state school since commencement of Prep, the student's remaining allocation is the basic allocation less the number of semesters of state education provided to the student (that is, the number of remaining semesters required to enable the student to complete Year 12).

For other students, the Bill provides that the student's initial remaining allocation is determined by the principal of the school in accordance with the existing criteria under section 62 of the EGPA.

Students whose initial remaining allocation is determined this way include:

- a student who has not been allocated a basic allocation;
- a student whose enrolment has stopped;
- a student who received schooling at a non-state school or received home education;
- a student who received schooling at a school in another jurisdiction (in or outside of Australia); or
- a student who has been exempted from enrolment under section 186 of the EGPA.

The Bill is prospective in operation and will not impact on the current basic allocation or remaining allocation given to students previously under the EGPA.

Cancel enrolment of international students for non-payment of tuition fees

The Bill amends EGPA to give the Director-General of the Department the power to cancel enrolment of an international student if the student or their parents do not pay the required fees.

While the power will apply broadly to international students the Department's fee charging practices outlined above will not change. For example, refugees are not charged tuition fees currently and it is not intended to start charging refugees fees. The Department's existing power in the EGPA to exempt or waive fees will continue to be applied to support families experiencing financial hardship. Despite this policy intention the Bill does not limit the power to cancel enrolment to particular classes of visa holders. Visa arrangements are set by the Commonwealth Government and are subject to change over time. Responding to those changes is best left to administrative practice rather requiring amendments to legislation.

The new power will apply to students who are enrolled in a state school prior to commencement of the Bill who have outstanding fees. However, before cancelling the student's enrolment in this circumstance, the Bill requires the Director-General to notify the student, or their parent, of the intention to cancel the enrolment should the fees not be paid within at least 14 days.

Alternative ways of achieving policy objectives

There are no alternatives that would achieve the policy objectives other than the proposed Bill.

Estimated cost for government implementation

Implementation of the Bill is not expected to result in any additional costs to the Queensland Government.

Consistency with fundamental legislative principles

Cancel enrolment of international students for non-payment of tuition fees

Under section 4(3)(g) of the *Legislative Standards Act 1992* it is a breach of fundamental legislative principles if rights of a person are affected by an administrative decision which is not subject to appropriate review or affects rights retrospectively.

The power to cancel the enrolment of an international student for non-payment of tuition fees will adversely affect the rights of these students and their parents. The Bill also provides the power to cancel enrolment of students who have outstanding unpaid tuition fees on commencement of the amendment. This may be argued to adversely affect the rights of individuals and impose obligations retrospectively.

These potential breaches of fundamental legislative principles are considered justified. Parents of dependant students are fully informed of their obligations and agree to pay school fees prior to obtaining their visa and enrolling in a state school. It is a Commonwealth Government requirement that children of parents intending to study in Australia are enrolled in school before the parents apply for a visa. Parents are also required to prove to the Commonwealth Government that they have sufficient funds to pay school fees during their stay in Australia.

Also, the Director-General has capacity to enter into flexible payment arrangements and, in appropriate circumstances, waive fees. Administrative practices will be put in place to support parents to meet the payment obligations and support the ongoing enrolment of these students where possible. This process of cancellation is not prescribed in the Bill as it can be a seesawing one whereby payment plans are entered into and revised over time. Confusion may result if the prescribed notice process does not align with the practice of encouraging payment. However, for international students enrolled at the commencement of the amendments, the Bill includes a requirement for a notice to be given to the student, or their parent, of the intention to cancel enrolment should the fees not be paid within at least 14 days.

The Bill does not preclude a parent whose child's enrolment has been cancelled from re-enrolling the student on payment of the fee.

The Bill does not prescribe a right to review a decision to cancel enrolment, which is also a potential breach of fundamental legislative principles. There are concerns that any review mechanism will be used by parents of dependant students to avoid

cancellation and payment of fees. With international students often only staying in Australia for a couple of years it is possible a review process could remain on foot when a student leaves the country and their parents can no longer be effectively pursued for unpaid fees.

Transitional regulation making power

Under section 4(2) of the *Legislative Standards Act 1992* it is a breach of fundamental legislative principles if legislation does not have sufficient regard to the institution of Parliament. In this regard, the Bill includes a transitional regulation making power which allows the Bill to be amended by regulations made up to 2 years after the Act commences. This power to amend an Act by regulation may infringe the principle that legislation should have sufficient regard to the institution of Parliament. However, the regulation making power can only be exercised for 2 years after the Bill commences. This provision is necessary so that any transitional issues in relation to the non-state school accreditation process and the move of Year 7 to secondary school that have not been identified during the drafting process can be quickly addressed.

Consultation

Extensive community consultation was undertaken in 2010 in relation to the move of Year 7 to secondary school, that is, the Flying Start Green and White Papers, including face-to-face community forums and online submissions. Following the main community consultation period, more in-depth conversations continued with key stakeholder groups including the Queensland Catholic Education Commission, Independent Schools Queensland, and the Queensland Council of Parents and Citizens' Associations Inc. to ensure a complete understanding of issues faced by each section of the community, by schools and the workforce.

The Accreditation Board, Independent Schools Queensland and the Queensland Catholic Education Commission have been consulted in relation to transitional arrangements for non-state schools catering for the move of Year 7.

Consistency with legislation of other jurisdictions

The does not introduce uniform or complimentary legislation.

Notes on provisions

Part 1 Preliminary

Clause 1 provides that the short title of the Act is the *Education Legislation Amendment Act 2013*.

Clause 2 provides for sections 7(4), 13 and 16 of part 4, and part 5 to commence on 1 January 2015. The remaining provisions will commence on assent.

Part 2 Amendment of Child Care Act 2002

Clause 3 provides that part 2 amends the *Child Care Act 2002*.

Clause 4 amends schedule 2 of the *Child Care Act 2002* to change the definitions of *primary education* and *secondary education* to refer to the definitions of these terms in schedule 4 of the EGPA. *Clause 16* of the Bill amends the definitions of *primary education* and *secondary education* in schedule 4 of the EGPA to define primary education as education offered in the Preparatory year and Years 1 to 6, and secondary education as education offered in Years 7 to 12.

Part 3 Amendment of Education (Accreditation of Non-State Schools) Act 2001

Clause 5 provides that part 3 amends the *Education (Accreditation of Non-State Schools) Act 2001* (the Accreditation Act).

Clause 6 inserts a new part 4 in Chapter 8 of the Accreditation Act providing for the transitional arrangements for the *Education Legislation Amendment Act 2013*.

New section 239 provides definitions for chapter 8, part 4 of the Accreditation Act, which are relevant to the transitional processes, supporting non-state schools to amend their accreditation status to move to delivery of Year 7 as secondary education from 2015.

New chapter 8, part 4, division 2 enables non-state schools currently accredited or provisionally accredited to offer Year 8 to change their attributes of accreditation to include Year 7 as secondary education from 2015.

New section 240 applies to a school that is accredited or provisionally accredited to offer secondary education for Year 8. Three examples are given: a school provisionally accredited to offer education from the Prep to year 12; a school accredited to offer education from Year 8 to Year 12; and a school accredited for the Years 5 to 12.

Subsection (2) applies if the governing body of the school intends that the school starts offering secondary education for Year 7 on or after 1 January 2015 and before 1 March 2016. The governing body of the school may give the Accreditation Board a written notice (Year 7 change notice) in the approved form. This section limits the transitional notification process to schools intending to offer Year 7 on or after 1 January 2015 and before 1 March 2016. A school that wishes to offer Year 7 as secondary from 1 March 2016 will need to follow existing procedure in the Accreditation Act.

Subsection (3) provides that the governing body must give the Year 7 change notice to the Accreditation Board on or before 31 October 2014, or by a later date allowed by the Accreditation Board, if the Accreditation Board is satisfied that unforeseen circumstances prevented the governing body from giving the notice on or before 31 October 2014.

New section 241 applies if the governing body of a school gives a Year 7 change notice to the Accreditation Board under new section 240. Subsection (2) ensures that the school cannot under this notification process seek to add a new site at which it will offer education. The section will not prevent a school moving Year 7 between existing sites.

Subsection (3) prevents a school from adding an attribute of accreditation or provisional accreditation to Year 7 that does not already apply to Year 8 for the school. If a school seeks to add a new attribute, for example: to move from a single sex school to a coeducational school; add a new site at which it provides education; or provide boarding facilities not previously provided to Year 8 students; the governing body would need to seek the usual approvals from the Accreditation Board for accreditation and the Minister for Government funding eligibility. The governing body cannot utilise the transitional process prescribed in this Bill.

Subsection (4) provides that the Accreditation Board must give the governing body a notice (a change notice) as soon as practicable after receiving the Year 7 change notice. The change notice is to state the changes to the school's attributes of accreditation or provisional accreditation and that the changes must be effected before 1 March 2016.

New section 242(1) provides that if the Accreditation Board gives a change notice under section 241 to the governing body of a provisionally accredited school, sections 56, 57 and 58 of the Accreditation Act apply as if the change notice was issued under sections 56, 57 and 58 and the change day is 1 March 2016 under section 56 and 57. Subsection (2) ensures that if the Accreditation Board gives a change notice under new section 241 to the governing body of an accredited school, sections 56, 57 and 58 of the Accreditation Act apply with the modifications prescribed in new subsections (a) to (f).

This section ensures the usual processes followed by a school and the Accreditation Board after a change of attribute of accreditation or provisional accreditation is approved are applied to the transitional process. Sections 56 provides for recording a change of attribute on the certificate of provisional accreditation or accreditation. Section 57 states what happens if a change is not effected before the change day. Section 58 provides that the application for the accreditation of the school, yet to be decided by the Accreditation Board, is taken to be amended to accord with the change notice.

New section 243 deems a governing body eligible for Government funding in certain circumstances. If the governing body is already eligible for Government funding for the school to offer Year 7 or Year 8; the governing body has given the Accreditation Board a Year 7 change notice; and the Accreditation Board gives the governing body a change notice, once the change is effected the governing body is taken to be eligible for Government funding for offering Year 7 as secondary education.

New section 244 applies to a school that is seeking to change their attributes of accreditation to include Year 7 as secondary education, but is not already eligible for Government funding for Year 7 or Year 8. The governing body of the school can change the attribute of accreditation by submitting a Year 7 change notice. However, the governing body will need to apply under the Accreditation Act if they wish to seek Government funding eligibility for Year 7 as secondary education.

New section 244 ensures that the Non-State Schools Eligibility for Government Funding Committee and the Minister can make decisions about Government funding eligibility for Year 7 as secondary education prior to the commencement of changes to the definition of primary and secondary education.

The new part 4, division 3 in chapter 8 provides a streamlined transitional process for stand-alone primary schools wishing to continue to offer Year 7 from 2015 but as secondary education.

New section 245 applies to a school that is accredited or provisionally accredited to offer primary education for Year 7 but not to offer secondary education. Subsection (2) provides that if the governing body intends to start offering at the school secondary education for Year 7 on or after 1 January 2015 and before 1 March 2016, the governing body may apply for accreditation under the transitional provisions.

This section limits the transitional process to non-state primary schools intending to offer Year 7 as secondary education on or after 1 January 2015 and before 1 March 2016. A non-state primary school that wishes to offer Year 7 as secondary from 1 March 2016 will need to follow existing procedure in the Accreditation Act.

New section 246 aims to ensure that the usual processes for applying for accreditation to offer secondary education will apply to stand-alone non-state

primary schools seeking to offer Year 7 as secondary education from 2015, subject to minor modifications to cater for the nature of the transitional process. This ensures a full assessment of a school's capacity to comply with the accreditation criteria can be undertaken by the Accreditation Board. This is necessary because these schools will be required to deliver Year 7 as secondary education under a revised curriculum model requiring different facilities and staff. However, the Bill enables the application to be made and decided prior to the amendments to the definition of primary and secondary education commencing.

New subsection 246(1) provides that if a school applies under division 3 for accreditation to offer secondary education for Year 7, chapter 2, part 2, division 2, subdivisions 2 and 4 and section 168 of the Accreditation Act apply with the modifications stated in the division. These provisions of the Accreditation Act are about the process for deciding applications for accreditation of schools and assessment of provisionally accredited schools.

New subsection 246(2) ensures that the existing process for consideration of Government funding eligibility only applies to a school that is not eligible for Government funding at the time of the application. Under new section 250, a primary school that is currently eligible for Government funding for the delivery of Year 7 will automatically be eligible for Government funding for the delivery of Year 7 as secondary education from 2015 if the Accreditation Board issues a certificate of provisional accreditation under this division.

The section ensures that sections 17 to 17B of chapter 2, part 2, division 2 of the Accreditation Act only apply to an application for accreditation made under division 3 of the transitional provisions for schools that are not, at the date of the application, eligible for Government funding to offer year 7. Sections 17 to 17B apply to such a school if a governing body seeks Government funding eligibility. Under those sections, the Accreditation Board is required to assess the not-for profit status of the school and if satisfied of prescribed matters, refer the application for Government funding eligibility to the Non-State Schools Eligibility for Government Funding Committee.

New section 247 provides for the procedural requirements for primary schools applying to offer Year 7 as secondary education from 2015 under the transitional arrangements. An application for the accreditation must be made to the Accreditation Board, in the approved form and accompanied by the fee, if any, prescribed under a regulation. Copies of current positive notices or current positive exemption notices for all the directors of the school's governing body must be provided. The application must be made on or before 31 October 2014 or by a later date allowed by the Accreditation Board if it is satisfied that unforeseen circumstances prevented the governing body applying on or before 31 October 2014.

Subsection (2) states that the approved form must require the inclusion of the school's student-intake day that is to apply for Year 7 if the Accreditation Board provisionally accredits the school. That is the day the school intends to start to offer Year 7 as secondary education.

Subsection (3) ensures the student-intake day is a day on or after 1 January 2015 and before 1 March 2016. Primary schools seeking to offer Year 7 as secondary education after 1 March 2016 will need to follow usual processes under the Act, including assessment of Government funding eligibility.

New section 248 provides that when deciding the application the Accreditation Board must consider the application as if the definition of primary education does not include Year 7, and the definition of secondary education includes Year 7. This is necessary as clause 16 which amends these definitions in the EGPA will commence at a later date, that is, 1 January 2015. The definitions of primary and secondary education in the Accreditation Act link to the EGPA definitions.

New section 249 applies to a school that is accredited or provisionally accredited to offer primary education for Year 7 but not to offer secondary education. If such a school does not apply for accreditation under the transitional arrangements in part 4, division 3, or the Accreditation Board refuses to provisionally accredit the school under part 4, division 3, from 1 January 2015 the school is taken to not have the attribute of accreditation to provide education for Year 7 and is not eligible for Government funding for Year 7 subject to the school applying for accreditation or Government funding under chapters 2 or 3. The effect of this provision is that from 1 January 2015 the school can no longer offer Year 7.

New section 250 applies if the Accreditation Board issues a certificate of provisional accreditation under division 3 and immediately before the certificate is issued the governing body is eligible for Government funding for Year 7 as primary education. Subsection (2) provides that once the certificate of provisional accreditation is issued, the governing body of the school is taken to be eligible for Government funding for offering Year 7 as secondary education.

New section 251 applies if before 1 January 2015 a person applies for accreditation of a school that is not provisionally accredited or accredited and the application includes an attribute for the school to start offering secondary education for Year 7 on or after 1 January 2015.

Subsection (2) provides that when deciding the application the Accreditation Board must consider the application as if the meaning of primary education did not include Year 7 and the meaning of secondary education includes education offered in Year 7.

New section 252 provides for a transitional-regulation making power. This section, and any transitional regulation made under it, will expire 2 years after the

commencement of new section 239. This transitional regulation making power may be used to for any matter relating to: a school being provisionally accredited or accredited to provide secondary education for Year 7; or a school being eligible for Government funding for offering Year 7 as secondary education; and a matter for which the Act does not make provision or sufficient provision.

Clause 7 amends the schedule 3 Dictionary in the Accreditation Act to make amendments to certain definitions to reflect terms used in the transitional provisions and to amend the definition of *sectors of schooling* so that Year 7 is, from 2015, part of the Years 7 to 10 sector of schooling.

Part 4 Amendment of Education (General Provisions) Act 2006

Clause 8 provides that part 4 amends the EGPA.

Clause 9 amends section 11 of the EGPA to change the meaning of *basic allocation* and *remaining allocation*. Subsection (1) changes the definition of basic allocation to mean the allocation of 26 semesters of State education rather than 24 semesters. This ensures the basic allocation under the EGPA for state school students will include adequate semesters necessary for completion of Prep to Year 12, that is, 26 semesters or 13 years of schooling. This will not affect the current position that enrolment in Prep is not compulsory.

Subclause 9(2) replaces the section 11(3) with new subsections (3) and (3A). The new section 11(3) provides that the remaining allocation for a student who had a basic allocation, began schooling in Prep at a state school and continued to be enrolled at any state school is the basic allocation (26 semesters) less the number of semesters of state education provided to the student.

The new subsection 11(3A) provides that the remaining allocation for the following students is the number of semesters allocated by the principal under section 61 of the EGPA less the number of semesters of state education provided to the student:

- a student who has not been allocated a basic allocation;
- a student's whose enrolment has stopped;
- a student who received schooling at a non-state school or received home education under chapter 9, part 5 of the EGPA;
- a student who received schooling at a school in another jurisdiction (in or outside of Australia); or
- a student who has been exempted from enrolment under section 186 of the EGPA.

Subclause 9(3) provides for subsections 11(3A) to (4) to be renumbered as 11(4) to (5).

Clause 10 amends section 51 of the EGPA to enable cancellation of the enrolment of a student in a state school, or the registration of a pre-preparatory aged child in a pre-preparatory learning program, for non-payment of tuition fees. This applies to a student or pre-preparatory aged child who is not an Australian citizen or permanent resident, or a child of an Australian citizen or permanent resident.

Clause 11 omits section 59 of the EGPA. Section 59 is a summary of chapter 5, (Allocation of State Education). It is not a substantive provision and can be omitted.

Clause 12 replaces sections 60 and 61 of the EGPA.

New section 60 provides that if a student begins schooling in Prep at a state school, the student has the basic allocation determined from the start of the calendar year in which the student begins schooling. The basic allocation is defined in section 11 to mean 26 semesters.

New section 61 provides that if an application is made by a student prescribed in section 11(4) to enrol in a state school under section 155 the school's principal must decide the student's initial remaining allocation in accordance with considerations currently prescribed in section 62 of the EGPA. Subsection 61(3) provides that if the student has been subjected to an exemption under chapter 9, part 3 of the EGPA, and did not undertake an educational program for all or part of the period of exemption (the excused period), the excused period must not be included in calculating the student's initial remaining allocation.

Clause 13 amends in section 77 of the EGPA the definition of *coopted student member* of a school council established for a state school that does not offer secondary education to mean a student in Year 6 of the school rather than Year 7.

Clause 14 omits sections 315(2) and (3) of the EGPA and inserts new subsections. This is a minor technical amendment regarding the process for making an annual submission to revoke a person's permanent exclusion from one, some or all state schools. Section 315 enables persons who have been permanently excluded to make a submission to the Director-General about whether the exclusion should be revoked.

Section 315 requires the person to make the submission within the period that is one month prior to the anniversary of the person's exclusion, or later time approved by the Director-General. The amendments simplify the process for making submissions by removing limitations on when the submission can be made. Instead, the section enables a submission to be made once a year in each calendar year following the date of the person's exclusion until the end of the calendar year that the person reaches 24 years of age, after which time the person can no longer make submissions.

Clause 15 inserts a new chapter 20, part 6 in the EGPA (sections 513 to 515) to provide transitional provisions for the *Education Legislation Amendment Act 2013*.

New section 513 provides for the definitions for part 6.

New section 514 states that despite section 12 of the *Education Legislation Amendment Act 2013* a decision under section 61 of the pre-amended EGPA made before the commencement continues in effect on and after the commencement until another decision is made under section 61 of the EGPA. This ensures that any decision made under section 61 about remaining allocations will continue in effect until another decision is made under section 61.

The new section 515 applies to a fee charged under the pre-amended EGPA before the commencement. Subsection (2) provides that while the fee remains unpaid the chief executive may cancel the enrolment of the person, or the registration of the pre-preparatory age child to whom the fee relates. Subsection (3) requires the chief executive to, at least 14 days before the enrolment or registration is cancelled, to give the person or a parent of the child notice that the chief intends to cancel the person's enrolment or registration.

Clause 16 amends the schedule 4 Dictionary of the EGPA to amend the definition of *primary education* to mean education offered in Prep and Years 1 to 6, and the definition of *secondary education* to mean education offered in Years 7 to 12.

Part 5 Amendment of Education (Queensland Studies Authority) Act 2002

Clause 17 provides part 5 amends the *Education (Queensland Studies Authority) Act 2002* (QSA Act).

Clause 18 amends the definitions of *primary school* and *secondary school* in schedule 2 of the QSA Act, so that *primary school* means a school, other than a special school, offering education in Prep and Years 1 to 6, and *secondary school* means a school, other than a special school, offering education in Years 7 to 12.

Part 6 Minor amendments

Clause 19 provides that schedule 1 amends the EGPA.

Schedule 1 Minor amendments

The schedule makes minor amendments to the EGPA.

Items 1, 2 and 3 make minor amendments to reflect the amendment to section 61 of the EGPA that the principal is making a decision about an *initial* remaining allocation to distinguish section 61 from a remaining allocation under section 11 of the EGPA.

Item 4 removes the reference in subsection 68(1)(a) to subsection 61(4) as this subsection has been omitted by the Bill.

Items 5 and 6 amend section 90(2)(a) and (b) of the EGPA to clarify terms of appointment of school council members. Section 90 for the term provides for members to hold office for a term not longer than 2 years stated in the council's constitution. Section 90(2) enables a school council's constitution to allow a prescribed number of first elected members to be appointed for not longer than three years. The amendments clarify the intention that:

- a) if the number of the first elected members is an even number, then one half of the first elected members may
- b) be appointed for the longer term; and
- c) if the number of the first elected members is an odd number, then the next highest whole number than one half of the first elected members may be appointed for the longer term.

Item 7 omits the heading in section 185 and replaces it with a new heading to ensure consistency with the intent of section.

Item 8 omits from the heading in section 335 of the EGPA the words 'pt 6' and inserts the correct reference 'pt 5'.