

2008

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Australian Curriculum, Assessment and  
Reporting Authority Bill 2008**

**No.     , 2008**

*(Education, Employment and Workplace Relations)*

**A Bill for an Act to establish the Australian  
Curriculum, Assessment and Reporting Authority,  
and for related purposes**



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1     **A Bill for an Act to establish the Australian**  
2     **Curriculum, Assessment and Reporting Authority,**  
3     **and for related purposes**

4     The Parliament of Australia enacts:

5     **Part 1—Preliminary**  
6

7     **1 Short title**

8                     This Act may be cited as the *Australian Curriculum, Assessment*  
9                     *and Reporting Authority Act 2008*.

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1     **2 Commencement**

2                     This Act commences on the day on which it receives the Royal  
3                     Assent.

4     **3 Definitions**

5                     In this Act:

6                     ***Australian government body*** means:

- 7                         (a) the Commonwealth, a State or a Territory; or  
8                         (b) an agency or authority of:  
9                                 (i) the Commonwealth; or  
10                                (ii) a State; or  
11                                (iii) a Territory.

12                     ***Board*** means the Board of the Australian Curriculum, Assessment  
13                     and Reporting Authority.

14                     ***CEO*** means the Chief Executive Officer of the Australian  
15                     Curriculum, Assessment and Reporting Authority.

16                     ***Chair*** means the Chair of the Board.

17                     ***Charter*** means the charter of the Australian Curriculum,  
18                     Assessment and Reporting Authority as determined from time to  
19                     time by the Ministerial Council.

20                     ***Deputy Chair*** means the Deputy Chair of the Board.

21                     ***Finance Minister*** means the Minister administering the  
22                     *Commonwealth Authorities and Companies Act 1997*.

23                     ***member*** means a member of the Board and includes the Chair and  
24                     the Deputy Chair.

25                     ***Ministerial Council*** means the council of Commonwealth, State  
26                     and Territory Ministers that is known as the Ministerial Council on  
27                     Education, Employment, Training and Youth Affairs on the day on  
28                     which this definition commences.

1                    **personal information** has the same meaning as in section 6 of the  
2                    *Privacy Act 1988*.

3                    **State or Territory Education Minister** means the Minister  
4                    representing the State or Territory concerned on the Ministerial  
5                    Council.

#### 6                    **4 Constitutional operation of this Act**

7                    Without limiting its effect apart from this section, this Act also has  
8                    the effect it would have if the powers and functions of the  
9                    Australian Curriculum, Assessment and Reporting Authority were  
10                   confined to powers and functions that were to be exercised and  
11                   performed:

- 12                   (a) in so far as it is appropriate for those powers and functions to  
13                   be exercised and performed by the Australian Curriculum,  
14                   Assessment and Reporting Authority on behalf of the  
15                   Government of the Commonwealth as the national  
16                   Government of Australia; and
- 17                   (b) for purposes for which it is appropriate for the Parliament, as  
18                   the national Parliament of Australia, to authorise the  
19                   Australian Curriculum, Assessment and Reporting Authority  
20                   to exercise powers and perform functions; and
- 21                   (c) in relation to expenditure of money that is available for the  
22                   purposes of the Australian Curriculum, Assessment and  
23                   Reporting Authority in accordance with an appropriation  
24                   made by the Parliament; and
- 25                   (d) for the purposes of providing benefits to students; and
- 26                   (e) in relation to trade and commerce with other countries,  
27                   among the States, between Territories or between a Territory  
28                   and a State; and
- 29                   (f) in relation to postal, telegraphic, telephonic, and other like  
30                   services; and
- 31                   (g) in relation to the collection of statistics; and
- 32                   (h) in relation to external affairs; and
- 33                   (i) in relation to a Territory; and
- 34                   (j) in relation to the executive power of the Commonwealth; and

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- 1 (k) in relation to matters incidental to the execution of any of the  
2 legislative powers of the Parliament or the executive power  
3 of the Commonwealth.



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## **Part 2—Australian Curriculum, Assessment and Reporting Authority**

### **5 Establishment**

(1) The Australian Curriculum, Assessment and Reporting Authority is established by this section.

(2) The Australian Curriculum, Assessment and Reporting Authority:

(a) is a body corporate; and

(b) must have a seal; and

(c) may acquire, hold and dispose of real and personal property; and

(d) may sue and be sued.

Note: The *Commonwealth Authorities and Companies Act 1997* applies to the Australian Curriculum, Assessment and Reporting Authority. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

(3) The seal of the Australian Curriculum, Assessment and Reporting Authority is to be kept in such custody as the Board directs, and is not to be used except as authorised by the Board.

(4) All courts, judges and persons acting judicially must:

(a) take judicial notice of the imprint of the seal of the Australian Curriculum, Assessment and Reporting Authority appearing on a document; and

(b) presume that the document was duly sealed.

### **6 Functions**

The functions of the Australian Curriculum, Assessment and Reporting Authority are to:

(a) develop and administer a national school curriculum, including content of the curriculum and achievement standards, for school subjects specified in the Charter; and

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- 1 (b) develop and administer national assessments; and  
2 (c) collect, manage and analyse student assessment data and  
3 other data relating to schools and comparative school  
4 performance; and  
5 (d) facilitate information sharing arrangements between  
6 Australian government bodies in relation to the collection,  
7 management and analysis of school data; and  
8 (e) publish information relating to school education, including  
9 information relating to comparative school performance; and  
10 (f) provide school curriculum resource services, educational  
11 research services and other related services; and  
12 (g) provide information, resources, support and guidance to the  
13 teaching profession; and  
14 (h) perform such other functions that are conferred on it by, or  
15 under, this Act or any other Commonwealth Act; and  
16 (i) perform such other functions that are ancillary or incidental  
17 to the functions mentioned in the preceding paragraphs.

### 7 Considerations governing the performance of functions

- 19 (1) The Australian Curriculum, Assessment and Reporting Authority  
20 must perform its functions and exercise its powers in accordance  
21 with any directions given to it by the Ministerial Council in  
22 writing.

23 Note: For how directions are given see: section 42. For directions relating to  
24 reporting requirements see: subsection 43(3).

- 25 (2) Directions under subsection (1) must not be inconsistent with:  
26 (a) this Act or the regulations under this Act; or  
27 (b) the *Commonwealth Authorities and Companies Act 1997*, or  
28 regulations or instruments made under that Act.
- 29 (3) The Australian Curriculum, Assessment and Reporting Authority  
30 must also perform its functions and exercise its powers in  
31 accordance with the Charter.
- 32 (4) A direction given by the Ministerial Council under subsection (1)  
33 is not a legislative instrument.

- 1 (5) If the Charter is determined by the Ministerial Council in writing,  
2 the Charter is not a legislative instrument.

### 3 **8 Powers**

- 4 (1) The Australian Curriculum, Assessment and Reporting Authority  
5 has power to do all things necessary or convenient to be done for  
6 or in connection with the performance of its functions.
- 7 (2) The Australian Curriculum, Assessment and Reporting Authority's  
8 powers include, but are not limited to, the following powers:  
9 (a) to enter into contracts;  
10 (b) to accept gifts, devises, bequests and assignments (whether  
11 on trust or otherwise);  
12 (c) to do anything incidental to any of its functions.

### 13 **9 Charging of fees**

- 14 (1) The Australian Curriculum, Assessment and Reporting Authority  
15 may charge fees for things done in performing its functions.
- 16 (2) A fee must not be such as to amount to taxation.

### 17 **10 Privileges and immunities of the Crown**

- 18 The Australian Curriculum, Assessment and Reporting Authority  
19 does not have the privileges and immunities of the Crown in right  
20 of the Commonwealth.

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2 **Part 3—The Board of the Australian Curriculum,**  
3 **Assessment and Reporting Authority**

4 **Division 1—The Board**

5 **11 Establishment**

6 The Board of the Australian Curriculum, Assessment and  
7 Reporting Authority is established by this section.

8 **12 Role**

- 9 (1) The Board is responsible for ensuring the proper and efficient  
10 performance of the Australian Curriculum, Assessment and  
11 Reporting Authority's functions.
- 12 (2) The Board has power to do all things necessary or convenient to be  
13 done for or in connection with the performance of its duties.
- 14 (3) All acts and things done in the name of, or on behalf of, the  
15 Australian Curriculum, Assessment and Reporting Authority by the  
16 Board, or with the authority of the Board, are taken to have been  
17 done by the Australian Curriculum, Assessment and Reporting  
18 Authority.
- 19 (4) If a function or power of the Australian Curriculum, Assessment  
20 and Reporting Authority is dependent on the opinion, belief or  
21 state of mind of the Australian Curriculum, Assessment and  
22 Reporting Authority in relation to a matter, the function or power  
23 may be exercised upon the opinion, belief or state of mind of a  
24 person or body acting as mentioned in subsection (3) in relation to  
25 that matter.

26 **13 Membership**

27 The Board consists of the following members:

- 28 (a) the Chair of the Board;  
29 (b) the Deputy Chair of the Board;

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- 1 (c) one member nominated by the Minister;  
2 (d) one member nominated by:  
3 (i) the National Catholic Education Commission; or  
4 (ii) if the Commission ceases to exist—a similar body  
5 prescribed by the regulations for the purposes of this  
6 subparagraph;  
7 (e) one member nominated by:  
8 (i) the Independent Schools Council of Australia; or  
9 (ii) if the Council ceases to exist—a similar body prescribed  
10 by the regulations for the purposes of this subparagraph;  
11 (f) 8 members, each of whom is nominated by a different State  
12 or Territory Education Minister.

13 **14 Appointment of members**

- 14 (1) A member of the Board is to be appointed by the Minister by  
15 written instrument.

16 Note: A member of the Board is eligible for re-appointment: see subsection  
17 33(4A) of the *Acts Interpretation Act 1901*.

- 18 (2) The Minister can only make the appointment if:  
19 (a) the Ministerial Council has agreed to the appointment of the  
20 person; and  
21 (b) the Ministerial Council has agreed that the appointment of  
22 the person would ensure that the members of the Board  
23 collectively possess an appropriate balance of professional  
24 expertise in:  
25 (i) matters relating to school curriculum; and  
26 (ii) school assessment and data management; and  
27 (iii) analysis and reporting in relation to school performance;  
28 and  
29 (iv) financial and commercial matters in relation to the  
30 management of educational organisations; and  
31 (v) corporate governance; and  
32 (c) if the person is required to be nominated for the appointment  
33 as mentioned in paragraph 13(c), (d), (e) or (f)—the person  
34 has been so nominated.

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- 1 (3) A member holds office on a part-time basis.
- 2 (4) A member holds office for the period specified in the instrument of  
3 appointment. The period must not exceed 3 years.
- 4 (5) A person must not be appointed for a period if the sum of:  
5 (a) that period; and  
6 (b) any periods of previous appointment of the person as a  
7 member;  
8 exceeds 6 years.

9 **15 Acting in positions**

- 10 (1) The Deputy Chair is to act as the Chair:  
11 (a) during a vacancy in the office of Chair (whether or not an  
12 appointment has previously been made to the office); or  
13 (b) during any period, or during all periods, when the Chair:  
14 (i) is absent from duty or from Australia; or  
15 (ii) is, for any reason, unable to perform the duties of the  
16 office.
- 17 (2) While the Deputy Chair is acting as the Chair:  
18 (a) the Deputy Chair has, and may exercise, all the Chair's  
19 powers, and must perform all the Chair's functions and  
20 duties; and  
21 (b) this Act, and all other Acts, apply to the Deputy Chair as if he  
22 or she were the Chair.
- 23 (3) Anything done by or in relation to the Deputy Chair when  
24 purporting to act under subsection (1) is not invalid merely because  
25 the occasion to act had not arisen or had ceased.
- 26 (4) The Minister may, by written instrument, appoint a member to act  
27 as the Deputy Chair:  
28 (a) during a vacancy in the office of Deputy Chair (whether or  
29 not an appointment has previously been made to the office);  
30 or  
31 (b) during any period, or during all periods, when the Deputy  
32 Chair:

- 1 (i) is acting as the Chair; or  
2 (ii) is absent from duty or from Australia; or  
3 (iii) is, for any reason, unable to perform the duties of the  
4 office.

- 5 (5) Anything done by or in relation to a person purporting to act under  
6 an appointment under subsection (4) is not invalid merely because:  
7 (a) the occasion for the appointment had not arisen; or  
8 (b) there was a defect or irregularity in connection with the  
9 appointment; or  
10 (c) the appointment had ceased to have effect; or  
11 (d) the occasion to act had not arisen or had ceased.

12 Note: See sections 20 and 33A of the *Acts Interpretation Act 1901*.

### 13 **16 Remuneration of members**

- 14 (1) A member is to be paid the remuneration that is determined by the  
15 Remuneration Tribunal. If no determination of that remuneration  
16 by the Tribunal is in operation, the member is to be paid the  
17 remuneration that is prescribed by the regulations.
- 18 (2) A member is to be paid the allowances that are prescribed by the  
19 regulations.
- 20 (3) This section has effect subject to the *Remuneration Tribunal Act*  
21 *1973*.

### 22 **17 Leave of members**

- 23 (1) The Minister may grant the Chair leave of absence on the terms  
24 and conditions that the Minister determines.
- 25 (2) The Chair may grant leave of absence to any other member on the  
26 terms and conditions that the Chair determines.
- 27 (3) The Chair must notify the Minister if the Chair grants to a member  
28 leave of absence for a period that exceeds 6 months.

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1 **18 Resignation of members**

- 2 (1) A member may resign his or her appointment by giving the  
3 Minister a written resignation.
- 4 (2) The resignation takes effect on the day it is received by the  
5 Minister or, if a later day is specified in the resignation, on that  
6 later day.

7 **19 Termination of appointment**

- 8 (1) The Minister may terminate the appointment of a member for  
9 misbehaviour or physical or mental incapacity.
- 10 (2) The Minister must terminate the appointment of a member if:  
11 (a) the member:  
12 (i) becomes bankrupt; or  
13 (ii) applies to take the benefit of any law for the relief of  
14 bankrupt or insolvent debtors; or  
15 (iii) compounds with his or her creditors; or  
16 (iv) makes an assignment of his or her remuneration for the  
17 benefit of his or her creditors; or  
18 (b) the member fails, without reasonable excuse, to comply with  
19 an obligation imposed on him or her by section 27F or 27J of  
20 the *Commonwealth Authorities and Companies Act 1997*; or  
21 (c) the member is absent, except on leave of absence, from 3  
22 consecutive meetings of the Board.

23 **20 Other terms and conditions of members**

24 A member holds office on the terms and conditions (if any) in  
25 relation to matters not covered by this Act that are determined by  
26 the Minister.



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2 **Division 2—Board Procedures**

3 **21 Meetings**

- 4 (1) The Chair must convene such meetings of the Board as are, in his  
5 or her opinion, necessary for the efficient conduct of its affairs.
- 6 (2) The quorum for a meeting is 9 members.
- 7 (3) However, if:
- 8 (a) a member is required by section 27J of the *Commonwealth*  
9 *Authorities and Companies Act 1997* not to be present during  
10 the deliberations, or to take part in any decision, of the Board  
11 with respect to a particular matter; and
- 12 (b) when the member leaves the meeting concerned there is no  
13 longer a quorum present;
- 14 those remaining members constitute a quorum for the purposes of  
15 any deliberation or decision at that meeting with respect to that  
16 matter.
- 17 (4) A question arising at a meeting of the Board is to be decided by a  
18 majority of the votes of the members present and voting.
- 19 (5) The Chair must preside at all meetings at which he or she is  
20 present.
- 21 (6) If the Chair is not present at a meeting the Deputy Chair, if present,  
22 must preside at the meeting.
- 23 (7) If neither the Chair nor the Deputy Chair is present at a meeting the  
24 members present must elect one of their number to preside at the  
25 meeting.
- 26 (8) At a meeting, the presiding member has a deliberative vote and, in  
27 the event of an equality of votes, has a casting vote.
- 28 (9) The Board must keep a record of any decisions made at a meeting.

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- 1                   (10) Subject to this Act and the *Commonwealth Authorities and*  
2                                 *Companies Act 1997*, the Board may regulate the conduct of its  
3                                 meetings as it thinks fit.

4                   **22 Decisions without meetings**

- 5                   (1) The Board is taken to have made a decision at a meeting if:  
6                                 (a) without a meeting, a majority of the members entitled to vote  
7   on the proposed decision indicate agreement with the  
8   decision; and  
9                                 (b) that agreement is indicated in accordance with the method  
10   determined by the Board under subsection (2); and  
11                                 (c) all the members were informed of the proposed decision, or  
12   reasonable efforts were made to inform all the members of  
13   the proposed decision.
- 14                   (2) Subsection (1) applies if the Board:  
15                                 (a) has determined that it may make decisions of that kind  
16   without a meeting; and  
17                                 (b) has determined the method by which members are to indicate  
18   agreement with proposed decisions.
- 19                   (3) For the purposes of paragraph (1)(a), a member is not entitled to  
20                                 vote on a proposed decision if the member would not have been  
21                                 entitled to vote on that proposal if the matter had been considered  
22                                 at a meeting of the Board.
- 23                   (4) The Board must keep a record of decisions made in accordance  
24                                 with this section.

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## **Part 4—Chief Executive Officer, staff and committees**

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### **Division 1—Chief Executive Officer**

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#### **23 Establishment**

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There is to be a Chief Executive Officer of the Australian Curriculum, Assessment and Reporting Authority.

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#### **24 Role**

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(1) The CEO is responsible for the day-to-day administration of the Australian Curriculum, Assessment and Reporting Authority.

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(2) The CEO has power to do all things necessary or convenient to be done for or in connection with the performance of his or her duties.

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(3) The CEO is to act in accordance with any policies determined, and any directions given, by the Board.

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(4) All acts and things done in the name of, or on behalf of, the Australian Curriculum, Assessment and Reporting Authority by the CEO, or with the authority of the CEO, are taken to have been done by the Australian Curriculum, Assessment and Reporting Authority.

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(5) If a function or power of the Australian Curriculum, Assessment and Reporting Authority is dependent on the opinion, belief or state of mind of the Australian Curriculum, Assessment and Reporting Authority in relation to a matter, the function or power may be exercised upon the opinion, belief or state of mind of a person or body acting as mentioned in subsection (4) in relation to that matter.

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(6) If a policy or direction under subsection (3) is in writing, the policy or direction is not a legislative instrument.

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1       **25 Appointment**

2                   (1) The CEO is to be appointed by the Board by written instrument  
3                   after consultation with the Minister.

4                   Note:       The CEO is eligible for reappointment: see subsection 33(4A) of the  
5                   *Acts Interpretation Act 1901*.

6                   (2) The CEO holds office on a full-time basis.

7                   (3) The CEO holds office for the period specified in the instrument of  
8                   appointment. The period must not exceed 3 years.

9                   (4) The CEO must not be a member of the Board.

10       **26 Acting appointments**

11                   (1) The Board may, after consultation with the Minister, by written  
12                   instrument appoint a person to act as the CEO:

13                   (a) during a vacancy in the office of the CEO (whether or not an  
14                   appointment has previously been made to the office); or

15                   (b) during any period, or during all periods, when the CEO:

16                   (i) is absent from duty or from Australia; or

17                   (ii) is, for any reason, unable to perform the duties of the  
18                   office.

19                   (2) Anything done by or in relation to a person purporting to act under  
20                   an appointment under subsection (1) is not invalid merely because:

21                   (a) the occasion for the appointment had not arisen; or

22                   (b) there was a defect or irregularity in connection with the  
23                   appointment; or

24                   (c) the appointment had ceased to have effect; or

25                   (d) the occasion to act had not arisen or had ceased.

26                   Note:       See sections 20 and 33A of the *Acts Interpretation Act 1901*.

27       **27 Other employment**

28                   (1) The CEO must not engage in paid employment outside the duties  
29                   of the CEO's office without the Chair's approval.

- 1 (2) The Chair must notify the Minister of any approval given under  
2 subsection (1).

### 3 **28 Remuneration**

- 4 (1) The CEO is to be paid the remuneration that is determined by the  
5 Remuneration Tribunal. If no determination of that remuneration  
6 by the Tribunal is in operation, the CEO is to be paid the  
7 remuneration that is prescribed by the regulations.
- 8 (2) The CEO is to be paid the allowances that are prescribed by the  
9 regulations.
- 10 (3) This section has effect subject to the *Remuneration Tribunal Act*  
11 *1973*.

### 12 **29 Leave**

- 13 (1) The CEO has the recreation leave entitlements that are determined  
14 by the Remuneration Tribunal.
- 15 (2) The Chair may grant the CEO leave of absence, other than  
16 recreation leave, on the terms and conditions as to remuneration or  
17 otherwise that the Chair determines.
- 18 (3) The Chair must notify the Minister if the Chair grants to the CEO  
19 leave for a period that exceeds one month.

### 20 **30 Disclosure of interests**

21 The CEO must give written notice to the Minister and the Board of  
22 all material personal interests that the CEO has or acquires that  
23 conflict or could conflict with the proper performance of the  
24 CEO's duties.

### 25 **31 Resignation**

- 26 (1) The CEO may resign his or her appointment by giving the Chair a  
27 written resignation.
- 28 (2) The resignation takes effect on the day it is received by the Chair  
29 or, if a later day is specified in the resignation, on that later day.

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- 1 (3) If the CEO resigns under this section, the Chair must notify the  
2 Minister of the resignation.

3 **32 Termination**

- 4 (1) The Board may terminate the appointment of the CEO for  
5 misbehaviour or physical or mental incapacity.
- 6 (2) The Board may terminate the appointment of the CEO if the Board  
7 is satisfied that the performance of the CEO has been  
8 unsatisfactory for a significant period of time.
- 9 (3) The Board must terminate the appointment of the CEO if:  
10 (a) the CEO:  
11 (i) becomes bankrupt; or  
12 (ii) applies to take the benefit of any law for the relief of  
13 bankrupt or insolvent debtors; or  
14 (iii) compounds with his or her creditors; or  
15 (iv) makes an assignment of his or her remuneration for the  
16 benefit of his or her creditors; or  
17 (b) the CEO is absent, except on leave of absence, for 14  
18 consecutive days or for 28 days in any 12 months; or  
19 (c) the CEO engages, except with the Chair's approval, in paid  
20 employment outside the duties of his or her office; or  
21 (d) the CEO fails, without reasonable excuse, to comply with  
22 section 30.
- 23 (4) If the Board terminates the appointment of the CEO, the Board  
24 must notify the Minister of the termination.

25 **33 Other terms and conditions**

26 The CEO holds office on the terms and conditions (if any) in  
27 relation to matters not covered by this Act that are determined by  
28 the Board.

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2 **Division 2—Staff**

3 **34 Staff**

- 4 (1) The Australian Curriculum, Assessment and Reporting Authority  
5 may employ such persons as it considers necessary for the  
6 performance of its functions and the exercise of its powers.
- 7 (2) An employee is to be employed on the terms and conditions that  
8 the Australian Curriculum, Assessment and Reporting Authority  
9 determines in writing.

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2 **Division 3—Committees**

3 **35 Committees of the Australian Curriculum, Assessment and**  
4 **Reporting Authority**

- 5 (1) The Australian Curriculum, Assessment and Reporting Authority  
6 may constitute committees for the purpose of assisting it in the  
7 performance of its functions.
- 8 (2) A committee may be constituted:  
9 (a) wholly by members of the Board; or  
10 (b) wholly by persons who are not members of the Board; or  
11 (c) partly by members of the Board and partly by other persons.
- 12 (3) The Australian Curriculum, Assessment and Reporting Authority  
13 may determine:  
14 (a) the manner in which a committee is to perform its functions;  
15 and  
16 (b) the procedure to be followed at or in relation to the meetings  
17 of a committee, including matters with respect to:  
18 (i) the convening of meetings; and  
19 (ii) the number of members of the committee who are to  
20 form a quorum; and  
21 (iii) the selection of a member of the committee to be the  
22 Chair of the committee; and  
23 (iv) the manner in which questions arising at a meeting are  
24 to be decided.
- 25 (4) A committee must give the Australian Curriculum, Assessment and  
26 Reporting Authority such reports, documents and information in  
27 relation to the committee's functions as the Australian Curriculum,  
28 Assessment and Reporting Authority requests.

29 **36 Remuneration of committee members**

- 30 (1) If the Board decides that a member of a committee should be  
31 remunerated, that member is to be paid the remuneration that is  
32 determined by the Remuneration Tribunal. If no determination of



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- 1                   that remuneration by the Tribunal is in operation, that member is to  
2                   be paid the remuneration that is prescribed by the regulations.
- 3                   (2) A member of a committee is to be paid the allowances that are  
4                   prescribed by the regulations.
- 5                   (3) This section has effect subject to the *Remuneration Tribunal Act*  
6                   1973.

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## **Part 5—Finance**

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### **37 Money payable to the Australian Curriculum, Assessment and Reporting Authority**

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(1) There is payable to the Australian Curriculum, Assessment and Reporting Authority such money as is appropriated by the Parliament for the purposes of the Australian Curriculum, Assessment and Reporting Authority.

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(2) The Finance Minister may give directions about the amounts in which, and the times at which, money payable under subsection (1) is to be paid to the Australian Curriculum, Assessment and Reporting Authority.

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(3) If a direction under subsection (2) is given in writing, the direction is not a legislative instrument.

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### **38 Application of money by the Australian Curriculum, Assessment and Reporting Authority**

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(1) The money of the Australian Curriculum, Assessment and Reporting Authority consists of:

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(a) money paid to the Australian Curriculum, Assessment and Reporting Authority under section 37; and

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(b) any other money paid to the Australian Curriculum, Assessment and Reporting Authority.

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(2) The money of the Australian Curriculum, Assessment and Reporting Authority is to be applied only:

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(a) in payment or discharge of the costs, expenses and other obligations incurred or undertaken by the Australian Curriculum, Assessment and Reporting Authority in the performance of its functions and the exercise of its powers; and

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(b) in payment of any remuneration or allowances payable under this Act.

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- 1           (3) Subsection (2) does not prevent investment of surplus money of the  
2           Australian Curriculum, Assessment and Reporting Authority under  
3           section 18 of the *Commonwealth Authorities and Companies Act*  
4           1997.

### 5   **39 Taxation**

- 6           (1) To avoid doubt, for the purposes of section 50-25 of the *Income*  
7           *Tax Assessment Act 1997*, the Australian Curriculum, Assessment  
8           and Reporting Authority is taken to be a public authority  
9           constituted under an Australian law.

10           Note:       This means the Australian Curriculum, Assessment and Reporting  
11           Authority is exempt from income tax.

- 12           (2) The Australian Curriculum, Assessment and Reporting Authority is  
13           not subject to taxation under a law of a State or Territory, if the  
14           Commonwealth is not subject to the taxation.

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## Part 6—Other matters

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### 40 Information collection, use and disclosure

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(1) Personal information must not be collected by the Australian Curriculum, Assessment and Reporting Authority unless the collection is necessary for, and directly related to, any of the following purposes:

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(a) conducting research relating to the national school curriculum;

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(b) assisting government to formulate policies in relation to education matters;

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(c) formulating national reports consisting of aggregated data on school performance.

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(2) The use of personal information collected by the Australian Curriculum, Assessment and Reporting Authority in accordance with subsection (1) or lawfully disclosed to the Australian Curriculum, Assessment and Reporting Authority is taken to be authorised by law for the purposes of Information Privacy Principle 10 in section 14 of the *Privacy Act 1988* if the use is necessary for, and directly related to, any of the purposes mentioned in that subsection.

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(3) The disclosure of personal information by the Australian Curriculum, Assessment and Reporting Authority is taken to be authorised by law for the purposes of Information Privacy Principle 11 in section 14 of the *Privacy Act 1988* if:

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(a) the disclosure is made to a person or body that is prescribed by the regulations; and

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(b) the disclosure is necessary for, and directly related to, the purposes mentioned in subsection (1).

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Note: Paragraph 3 of Information Privacy Principle 11 in section 14 of the *Privacy Act 1988* applies to further disclosures of the personal information

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**41 Delegation**

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- 2 (1) The Minister may, by writing, delegate any or all of the Minister's  
3 functions or powers under this Act to:  
4 (a) the Secretary of the Department; or  
5 (b) an SES employee in the Department.

6 Note: For variation and revocation, see subsection 33(3) of the *Acts*  
7 *Interpretation Act 1901*.

- 8 (2) In performing functions and exercising powers under the  
9 delegation, the delegate must comply with any directions of the  
10 Minister.

11 Note: See sections 34AA to 34A of the *Acts Interpretation Act 1901*.

- 12 (3) The Chair may, by writing, delegate any or all of the Chair's  
13 functions or powers to another member of the Board.

- 14 (4) In performing functions and exercising powers under the  
15 delegation, the delegate must comply with any directions of the  
16 Chair.

**42 How Ministerial Council gives directions etc.**

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18 The Ministerial Council is to give a direction, an approval or a  
19 refusal for the purposes of a provision of this Act by resolution of  
20 the Council passed in accordance with the procedures determined  
21 by the Council.

**43 Reporting requirements**

- 22  
23 (1) The Chair must prepare and give to the Ministerial Council a report  
24 relating to a financial year on or before:  
25 (a) 30 September after the end of that year; or  
26 (b) if the Minister specifies a later time—that time.
- 27 (2) The report must include:  
28 (a) particulars of the activities of the Australian Curriculum,  
29 Assessment and Reporting Authority during that financial  
30 year to the extent they relate to the Charter; and

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1 (b) if the Ministerial Council gives a direction under subsection  
2 7(1) requiring the report to include any other information  
3 relating to the performance of the Australian Curriculum,  
4 Assessment and Reporting Authority's functions—that  
5 information.

6 (3) However, information required in a direction under subsection 7(1)  
7 must not include any personal information.

8 **44 Review of role and functions**

9 (1) The Minister must cause a review of the Australian Curriculum,  
10 Assessment and Reporting Authority's ongoing role and functions  
11 to be conducted.

12 (2) The review must:  
13 (a) start 6 years after the commencement of this section; and  
14 (b) be completed within 6 months.

15 (3) The Minister must cause a written report about the review to be  
16 prepared.

17 (4) The Minister must cause a copy of the report to be laid before each  
18 House of Parliament within 15 sitting days after the Minister  
19 receives the report.

20 **45 Regulations**

21 The Governor-General may make regulations prescribing matters:  
22 (a) required or permitted by this Act to be prescribed; or  
23 (b) necessary or convenient to be prescribed for carrying out or  
24 giving effect to this Act.