

YOUTH BILLS & ACTS



 youth parliament 2013
YMCA Of South Australia



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Welcome to the Book of Youth Bills & Acts of Youth Parliament 2013!

The 18th YMCA SA Youth Parliament presented fourteen Bills and two Motion of Public Importance's. One Motion of Public Importance passed plus five Bills, making five Youth Acts. Six Bills passed in one house only and three Bills failed in both houses.

The most successful Bill was the Free Student Public Transport Act 2013 which had a collective fifty-six Aye votes and thirteen Nay votes across the two houses. Another special mention is the Indigenous Education Studies Act 2013 which concluded in the upper house with a unanimous vote.

Youth Parliamentarians have put in a commendable effort to bring these Bills to Parliament and wish for the voice of young people to be heard!

For further information or feedback on any of the following Bills and Acts, please contact the YMCA Youth Programs Coordinator, Michelle Brown, on the details below.

On behalf of the Youth Parliament 2013 Taskforce and the YMCA of South Australia,

A handwritten signature in black ink, reading 'Rebecca Schaefer'.

Rebecca Schaefer
Youth Development Manager
YMCA of South Australia

A handwritten signature in black ink, reading 'Michelle Brown'.

Michelle Brown
Youth Programs Coordinator
YMCA of South Australia

A red banner with a white wavy line at the top. It contains the text 'GET MORE INFORMATION!' in bold, followed by the website 'www.sa.ymca.org.au', and then 'or contact YMCA Youth Parliament Project Manager' and '8200 2500 e: michelle.brown@sa.ymca.org.au'.



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Results of Youth Parliament 2013

Bills & Acts	Chamber	Ayes	Nays	Abstentions	Result
Youth Governor MPI - Engaging young people in voting	Legislative Council	27	41		Fail
National MPI - Abolishing off-shore asylum seeker processing	House of Assembly	35	33	9	Pass
Simpson Desert Protection Bill	Legislative Council	7	29		Fail
	House of Assembly	18	15		Pass
Driver Assessment Bill	Legislative Council	11	24	1	Fail
	House of Assembly	6	26	1	Fail
Youth Employment Act	Legislative Council	24	11	1	Pass
	House of Assembly	21	11		Pass
Sexual Consent Bill	Legislative Council	18	11	5	Pass
	House of Assembly	10	22	1	Fail
Racist Conduct (Penalties) Bill	Legislative Council	6	20	10	Fail
	House of Assembly	11	15	7	Fail
The Progressive Education Bill	Legislative Council	20	13	3	Pass
	House of Assembly	16	17		Fail
Youth Violence Prevention and Intervention Bill	Legislative Council	13	18	3	Fail
	House of Assembly	17	15		Pass
Criminal Law (Offences of Prejudice) Bill	Legislative Council	20	14	2	Pass
	House of Assembly	14	18	1	Fail
Free Student Public Transport Act	Legislative Council	27	9		Pass
	House of Assembly	29	4		Pass

Bills & Acts	Chamber	Ayes	Nays	Abstentions	Result
Organ Sponsorship and Quality Act	Legislative Council	18	14	3	Pass
	House of Assembly	18	15		Pass
Indigenous Education Studies Act	Legislative Council	29		6	Pass
	House of Assembly	19	13		Pass
Fireworks Regulation Bill	Legislative Council	4	21	11	Fail
	House of Assembly	10	22		Fail
Cultural Awareness and Mandated Facial Identification Bill	Legislative Council	22	12		Pass
	House of Assembly	14	19		Fail
Family Planning Options Act	Legislative Council	20	4	9	Pass
	House of Assembly	16	12	5	Pass



***The Office of His Excellency
Youth Governor Aaron dela Paz***

Declaration of the Youth Governor

*President
Legislative Council
Parliament of South Australia
North Terrace*

I desire the attendance of all honourable members of the House of Assembly and Legislative Council, on the date 15 July 2013 at 10:00am, at the building known as Parliament House, North Terrace, Adelaide, for the 18th Session of the South Australian Youth Parliament.

Signed

A handwritten signature in black ink, appearing to read "A. dela Paz".

His Excellency Aaron dela Paz

Youth Governor's Motion of Public Importance:

His Excellency, the Youth Governor Aaron dela Paz, directs and invites the Government of the Youth Parliament of South Australia to move and discuss;

'That lowering the voting age would generate political interest among young people? If yes, why? If no, what are the possible alternatives?'

Brief:

A lot of young people nowadays are apathetic and disengaged in the political process. It has been acknowledged that the participation of young people in the policy and law making process are not only vital to the effectiveness of any law but, more importantly, in steering the nation to a proper direction for the future generation. Kevin Rudd acknowledged this fact in his speech on June 27 2013, which is worth quoting in length:

“Before I conclude, let me say a word or two to young Australians. It's clear that many of you, in fact far too many of you, have looked at our political system and the parliament in recent years and not liked or respected much of what you have seen. In fact as I rock around the place, talking to my own kids, they see it as a huge national turn off. Well I understand why you have switched off. It's hardly a surprise but I want to ask you to please come back and listen afresh. It's really important that we get you engaged, in any way we can. We need you. We need your energy. We need your ideas. We need your enthusiasm and we need you to support us in the great challenges that lie ahead for the country. With your energy, we can start cooking with gas.

The challenges are great but if we're positive and if we come together as a nation we can overcome each and every one of them.¹”

Youth Parliamentarians are asked to consider whether lowering the voting age would increase (or decrease) political interest among young people. They are also expected to consider what alternative OR complementary policies can be done to engage young people more in the law-making process.

The government is to propose this MPI—that increasing the voting age WILL generate political interest among young people.

The opposition is to argue that increasing the voting age WILL NOT generate political interest among young people. They are further expected to propose alternatives that would be more effective in achieving this goal.

¹<http://www.theage.com.au/opinion/political-news/kevin-rudds-speech-20130627-2oydw.html#ixzz2XtSSpT3p>

National Motion of Public Importance

‘The Banning of off-shore processing of asylum seekers’

Brief:

In 2001, the infamous Tampa Affair sparked changes to Australia’s system of refugee processing. The then Howard Government, with bi-partisan support, launched the ‘Pacific Solution’ that involved sending asylum seekers to third Manus Island and Nauru to process their refugee claim. The scheme was dismantled in 2007, allowing for on-shore processing of asylum seekers in detention centres in SA, WA and other states. In 2012, a government-appointed expert panel recommended for the re-introduction of off-shore processing in Nauru and Manus Island, and on August 16 2012, the legislation to give effect to this scheme has passed the Senate and became law.

The debate attracts issues relating to sovereignty, international law, human rights laws and conventions, and questions of morals and ethics. It is an ever-present item on any government’s agenda.

Youth Parliamentarians are asked to consider the following arguments in support of and against banning off-shore processing. This is in no way an exhaustive list, but should provide sufficient guidance for debate. Additional arguments may be included.

FOR Banning off-shore processing (to be presented by the Opposition)

1. Manus Island and Nauru, though they are signatories to the refugee convention, currently have insufficient domestic legislation that mandates and ensures the well-being of asylum seekers. (What laws do they lack? What deficiencies do these create?)
2. Reports have surfaced that off-shore processing puts asylum seekers at risk for mental illness and self-harm.
3. Off-shore processing is in breach of Australia’s international obligations under the Refugee Convention and others (note: when arguing this, specify the international obligation to which this might breach—thus, further research might be required)
4. It is unfair for Australia to treat asylum seekers so inhumanely, as they have already been the subject of violence and distress in their home countries.
5. Formal routes to seek asylum (i.e. applying for asylum in Australia’s international consulates and embassies) is tedious and time consuming.
6. Increases unfounded social stigma against asylum seekers that results to their further seclusion in the Australian community.

AGAINST Banning off-shore processing (to be argued by the Government)

1. Asylum seekers who arrive by boat and plane who do not have official papers are ‘queue jumpers’ who steal the place of legitimate asylum seekers who go through official routes of applying to seek asylum.
2. Full control of Australia’s borders is a sign of sovereignty.
3. Off-shore processing serves as a deterrence and disincentive for people contemplating to make the journey and seek asylum through informal means.
4. The ability to verify the identity, health status, and criminal history of asylum seekers before they enter Australia’s borders ensures the overall safety of Australian citizens.

South Australia

Simpson Desert Protection Bill 2013

Brief

The Simpson Desert is one of the largest areas of high quality wilderness left in Australia with an area of nearly three times the size of Tasmania. While the area is home to many different plants and wildlife very little of the Desert is actually formally protected. There has been coal identified in the area which is of low grade and very deep underground. At present there are three mining applications proposed in the Kallakoopah area of the Desert. If approved there would be irreversible damage to the Desert. Our Bill attempts to protect this unique piece of wilderness by banning all mining and other activities that would damage the Simpson Desert and the wildlife that lives there.

South Australia

Simpson Desert Protection Bill 2013

A BILL FOR

An Act to prevent mining in the Simpson Desert area to protect its important ecological diversity and heritage; and for related purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Simpson Desert Protection Act 2013*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Object of this Act

The objects of this Act are—

- (a) to stop all mineral and petrochemical exploration and extraction in the Simpson Desert; and
- (b) to implement other measures to protect the environment of the Simpson Desert.

4—Interpretation

In this Act, unless the contrary appears—

Minister means the Minister for the Environment;

Mining means the exploration and extraction of all minerals and petrochemical resources;

Simpson Desert means the area between the Simpson Desert Conservation Park and Regional Reserve and Lake Eyre National Park.

Part 2—Prohibited activities

5—Prohibition of mining

All mining is prohibited in the Simpson Desert.

6—Other prohibited activities

The following activities shall be prohibited in the Simpson Desert—

- (a) construction of permanent structures;
- (b) land clearing, except for fire prevention purposes, as requested by the Country Fire Service of South Australia, and approved by the Minister;
- (c) hunting; and
- (d) all agricultural activity, except that which has existed prior to the commencement of this Act.

Part 3—Miscellaneous provisions

7—Approval of activities in the Simpson Desert

All activities in the Simpson Desert, that do not violate the contents of this Act, and will not otherwise lead to environmental degradation, must be approved by the Minister.

8—Access by local Aboriginal Communities not to be abridged

Aboriginal communities living in the area shall have unrestricted access to the Simpson Desert, including the right to engage in traditional hunting.

South Australia

Driver Assessment Bill 2013

Brief

Each year South Australians are lost to the road toll, which is compounded by driver inexperience or inability. The purpose of this Bill is to establish a skilled and professional South Australian driving community that adapts to the capricious nature of the road, and leads Australia in road etiquette and conduct. Increasing the standards of our road users will be accomplished by having road users prove their competency in knowledge based tests.

Furthermore South Australia's existing medical driver standards will be formalised and extended. South Australia has adopted minimum medical standards in the past, but they are mostly circumvented by weak reporting requirements from doctors. A professional committee will be created to maintain and adopt the best practice standards.

South Australia

Driver Assessment Bill 2013

A BILL FOR

An Act to implement a mandatory driver competency assessment, and promote health guidelines; and for related purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Driver Assessment Act 2013*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Object of this Act

The objects of this Act are—

- (a) to reduce South Australian road fatalities;
- (b) to reduce related road incidences; and
- (c) to improve the road skills of South Australian drivers.

4—Interpretation

In this Act, unless the contrary appears—

Licence means a South Australian licence in any of the following classes C, LR, MR, HR, HC, MC, R-DATE;

DPTI means Department of Planning, Transport and Infrastructure.

Part 2— Establishment of a Committee for Driver Testing

5—Driver Testing Committee

A committee will be established to advise the Commissioner in their pursuit of the Objects of this Act, under the name South Australia Road Safety Committee (SARSC), and will be funded by the DPTI. It will consist of but not be limited to—

- (a) President—the Chief Executive of the Department for Health and Ageing;

- (b) Expert Advisor—accomplished medical practitioner currently or formerly a board member of a State or Federal Professional Medical Organisation;
- (c) the Chief Executive of the DPTI;
- (d) the Minister for Transport Services;
- (e) three members of the Australian Driver Trainers Association of South Australia; and
- (f) three medical practitioners.

Part 3—Licence Renewal

6—Establishing the mandatory testing of driving capability

- (1) Upon renewal of a licence, subject to s 6(1), a competency test must be taken to ensure the motorist is still able to drive.
- (2) The tests must be taken within ten years of each other upon the licence renewal that breaches the end of the ten (10) year period.
- (3) The test will include medical and knowledge based sections as determined by SARSC.

7—Logistics of the renewal and driver assessment

The cost of the knowledge competency test will be included within the license renewal fee.

Part 4—Driver Knowledge Assessment

- (1) A knowledge based competency assessment must be completed upon renewal of a license to ensure that the motorist is up to date with current laws.
- (2) The contents on the assessment will be decided upon by the SARSC and will contain similar content to the provisional hazard perception test and the Learner's knowledge test.

Part 5—Medical and Disclosure Standardisation

8—Medical assessment

- (1) The DPTI will be responsible for—
 - (a) issuing general medical assessment criteria to be completed by an authorised physician;
 - (b) issuing relevant medical assessment criteria to a relevant professional specialist in cases of specific disabilities.
- (2) The DPTI assessment criteria will be derived from recommendations made by SARSC.

9—Amendment of Motor Vehicle Act 1959—SECT 148

Section 148(1)—delete subsection (1) and substitute:

- (1) Where a health professional or person has reasonable cause to believe that—

Part 6—Penalties

10—Penalties for failure of knowledge test

- (1) Failure of a first or second sitting of the knowledge test, the driver may either—
 - (a) forfeit their licence and receive a full refund of licence renewal or
 - (b) pay to sit the knowledge test a third time.
- (2) Failure of third sitting results in, either—
 - (a) the forfeiting of licence and receive a full refund of licence renewal; or
 - (b) demoted back to provisional driver's licence under agreement to attend a compulsory driving course.
- (3) Compulsory corrective driving course.
 - (a) failure of this course, or failure to complete this course will result in a loss of licence.
 - (b) persons who successfully complete provisional licence requirements will engage in a practical driving examination.
- (4) Practical driving examination.
 - (a) failure of practical driving examination results in demotion back to provisional licence (P1's).
 - (b) a pass practical examination will result in reinstatement and renewal of full licence.

11—Penalties for failure of medical test

- (1) Persons who do not comply with minimal medical test requirements will not be permitted to renew their licence, subject to the exception in s 10(2).
- (2) The DPTI, advised by the SARSC, are able to provide alternative licence restrictions to allow disability exceptions when possible.

South Australia

Youth Employment Act 2013

Brief

This Act aims to target the issue of youth unemployment and the effects it has on the community. Throughout South Australia youth (between the ages of 15-24) are struggling to find employment. The April youth unemployment total for South Australia was 25.7%. One of the largest reasons for this is simply lack of experience. Currently tertiary and secondary education programs are not providing enough real world experience for those not pursuing trades. The first objective of this Act is to establish a committee to review and expand current youth employment and experience services.

There is also a reoccurring pattern whereby those employed in jobs that require little to no experience are having work drastically scaled back once they reach the age of seventeen in favour of their younger counterparts in order to save money, leaving many within this bracket out of work. That is why the second part of this Act will look at giving incentives to companies in exchange for employing and training unskilled youths in their particular fields. These incentives will help stimulate areas such as marketing, tourism, management and other areas where experience is extremely hard to come by.

South Australia

Youth Employment Act 2013

An Act to establish a committee to investigate possibilities to decrease unemployment rates among South Australian youths; and for related purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Youth Employment Act 2013*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Object of this Act

The objects of this Act are—

- (a) to establish a committee named the Youth Unemployment Review Committee;
- (b) to enable the Committee to review and expand current youth employment organisations; and
- (c) to enable the committee to provide incentives to organisations to take on inexperienced youth employees.

4—Interpretation

In this Act, unless the contrary appears—

Committee means the Youth Unemployment Review Committee;

ICAN means Innovative Community Action Networks;

senior means a management employee with five (5) years or more in their respective field;

TAFE SA means Technical and Further Education South Australia;

youth means a South Australian citizen aged 16-25.

Part 2—Establishment of Youth Unemployment Review Committee

5—Youth Unemployment Review Committee

- (1) A Youth Unemployment Review Committee will be established and shall be funded under the Department for Communities and Social Inclusion.
- (2) The Committee shall consist of; but not be limited to—
 - (a) Minister for Employment, Higher Education and Skills;
 - (b) Senior Representative from ICAN;
 - (c) Senior Representative from Workskil;
 - (d) Senior Representative from Centrelink; and
 - (e) Senior Representative from TAFE.

Part 3—Committee Responsibilities

6—Youth Organisations

The Committee will be responsible for reviewing and expanding existing youth unemployment organisations by, but not limited to—

- (a) establishing a set of regulations and targets that unemployment organisations need to meet to gain additional funding for the purposes of this Act;
- (b) establishing a set of regulations to downsize and reorganise underperforming organisations; and
- (c) consulting with youths, employers and organisations in the production of policies and strategies for the purposes of this Act.

7—Youth Employers Logo

The Committee will establish a logo that indicates a company or organisation is employing youth responsibly by, but not limited to—

- (a) establishing a strict set of rules and regulations that determine if a company or organisation meets the requirements, including number of youths employed, pay rate and quality of work.

8—Government Incentives

The Committee will be responsible for establishing a set of government funded incentives for companies and organisations by, but not limited to—

- (a) establishing a funding program to provide subsidies for companies to employ unexperienced youths for a period of six months; and
- (b) establishing a set of policies and regulations to provide tax breaks to companies and organisations that are responsibly employing youths for the purposes of this Act.

9—Sunset Clause

Two years after proclamation this Act shall be reviewed by the Legislative Review Committee.

South Australia

Sexual Consent Bill 2013

Brief

Under current legislation, the age of sexual consent in South Australia is 17. This is comparable to others states where the age of consent is 16, excluding Tasmania.

The charge of *Unlawful Sexual Intercourse* can be brought upon an individual if they are 17 or above and have sexual intercourse with a person 15 or below. Consent to sexual intercourse is not a valid defence. The charge is also a strict liability offence, meaning the court has no discretion in ruling on the maturity of persons involved and their ability to make informed decisions regarding sexual activity under the age of 17. If a charge is brought against a young person, they will be unable to work with children in the future.

Values of our society have progressed and changed over the years, however the legislation has not adapted to the change of times and minds.

South Australia

Sexual Consent Bill 2013

A BILL FOR

An Act to lower the age of sexual consent in South Australia; and for related purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Sexual Consent Act 2013*.

2—Commencement

This Act will come into operation one year after proclamation.

3—Object of this Act

The objects of this Act are—

- (a) to lower the age of sexual consent to 16; and
- (b) introduce sexting regulations.

4—Interpretation

In this Act, unless the contrary appears—

age of consent refers to the age a person is considered to be capable of legally giving consent to sexual acts with another person;

child sex offender refers to any person that has committed a child sex offence;

criminal offence refers to a person engaging in sexual behaviour with someone below the age of consent.

Part 2—Age of Sexual Consent

5—Unlawful sexual intercourse

Subject to s 6, a person who has sexual intercourse with a person under the age of sixteen years is guilty of an offence.

6—Defences to a charge of unlawful sexual intercourse

- (1) It shall be a defence to a charge under s 5, to prove that—

- (2) the person with whom the accused is alleged to have had sexual intercourse was, on the date on which the offence is alleged to have been committed, of or above the age of fourteen years; and—
- (3) the accused—
 - (a) was, on the date on which the offence is alleged to have been committed, under the age of seventeen years; or
 - (b) believed on reasonable grounds that the person with whom he is alleged to have had sexual intercourse was of or above the age of sixteen years.

Part 3—Publication of Sexually Explicit Images

7—Offence of publishing sexually explicit images

- (1) It is an offence under this Act to publish sexually explicit images.
- (2) Consent is not a valid defense under this Act unless—
 - (a) the publication is from one sole party to another;
 - (b) the persons publishing the image were above the age of sixteen (16); and
 - (c) no tender or services were offered to procure a sexually explicit image.
- (3) Publication to a third party is a strict liability offence.

Part 4—Education

8—Age of consent education and media campaign

- (1) Age of consent education will be incorporated into existing sex education programs.
- (2) A state-wide media campaign will be released in collaboration with school-based sex education.

South Australia

Racist Conduct (Penalties) Bill 2013

Brief

This Bill is intended to deal with the problem of racist conduct in South Australia. In order to reduce the frequency of such behaviour, it imposes penalties on conduct that is derogatory towards a person's racial background, nationality, culture, colour, ethnicity or religion. To encourage more tolerant behaviour in future, persons found guilty of the offence created by this Bill will be fined and required to undertake community service with a multicultural organisation. It is the intention of this Bill that any necessary encroachments on free speech be minimal in nature, therefore it establishes defences to an offence of racist conduct if the conduct were trivial in nature or in a political context and in good faith.

South Australia

Racist Conduct (Penalties) Bill 2013

A BILL FOR

An Act to impose fines on racially derogatory conduct and for related purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Racist Conduct (Penalties) Act 2013*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Object of this Act

The objects of this Act are—

- (a) To punish conduct that is derogatory towards a person's racial background with minimal encroachment to the freedom of speech;
- (b) To deter such conducts by imposing fines on potentially racist behaviour; and
- (c) To send a message to the populace that such conduct is socially unacceptable.

4—Interpretation

In this Act, unless the contrary appears—

conduct can take the form of words spoken, text published, unmistakeable body language or any means by which a message is communicated to a person/persons

derogatory actions are actions that cause ridicule, contempt, hatred or lowering of reputation of a person

good faith excludes conducts that are irreconcilable to what is reasonable, equitable, or conscientious.

political conducts are actions made in relation to government and public service.

race of a person means the nationality, country of origin, colour, ethnic origin, cultural subscriptions, or religion of the person or of another person with whom the person resides or associates;

Part 2—Racist Behaviour

5—Racially derogatory language

Any intentional or reckless conduct that is objectively derogatory to a person's race will be considered as an offence under this Act and will be subject to penalties as stipulated in s 7.

Part 3—Defences

6—Triviality

It is a defence to an offence under section 5 of this Act if—

- (a) the conduct is made with the intent to humour or amuse the person to which the conduct is directed at.
 - (i) This defence is rendered ineffective if the conduct is broadcasted, published, or in any way made apparent to any person other than the person to whom the conduct is aimed at.
 - (ii) The defence is not rendered invalid if the person committing the conduct reasonably believes that the conduct is not broadcasted, published, or in any way made apparent to any person other than the person to whom the conduct is aimed at.

7—Political speech

It is a defence to an offence under section 5 of this Act if—

- (a) the conduct is made in a political context; and
- (b) it is made in good faith.

Part 4—Penalties

8—Fines for offences under Part 2

The following penalties will be imposed for offences under Section 5 of this Act—

- (a) for first offence: \$200;
- (b) for second offence: \$500; and
- (c) for third and subsequent offences: \$1000.

9—Community Service

A person found guilty of an offence under Part 2 will also undertake 20 hours of community service volunteering in an organisation that is considered multicultural by the Department for Communities and Social Inclusion.

South Australia

The Progressive Education Bill 2013

Brief

The Progressive Education Act 2013 is a Bill to make sure all education is being taught at the same standard across the state of South Australia while also helping to make sure all students are at a high enough standard to progress into the next year level.

Too many students are slipping through the system and coming out of school not knowing how to do basic literacy and numeracy. This Bill will tackle this issue and will help to keep South Australian students in line with other students around the country and world. Students need to be taken care of and with this Bill it will help to guide our future generations into generations that can read and write and progress on to bigger things in life.

This Bill will help solve the problem of making sure students do not get to Grade Ten and be illiterate in the basic skills they need for everyday life.

South Australia

Progressive Education Bill 2013

A BILL FOR

An Act to provide a regulated mandatory examination paper to all South Australian Primary School students to ensure the ACARA Learning Outcomes are being met, and for related purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short Title

This Act may be cited as the *Progressive Education Act 2013*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Objects

The objects of the Act are—

- (a) to ensure all South Australian Primary School students are meeting the required ACARA National Australian Curriculum learning outcomes.
- (b) to establish The Education Reform Commission to regulate, externally mark and review the *Progressive Education Act 2013*.

4—Interpretation

In this Act, unless the contrary intention appears—

ACARA means the Australian Curriculum, Assessment and Reporting Authority;

APY Lands means Anangu Pitjantjatjara Yankunytjatjara Lands;

Commission means the Education Reform Commission;

Commissioner means the Commissioner of the Education Reform Commission;

Foundation means any student in their first grade at school;

LAP means Learning Assistance Program;

NEP means Negotiated Education Plan;

retention means not allowing a South Australian Primary School student to progress to the next grade;

rural means any South Australian Primary School that is not in a Metropolitan Adelaide Schooling District;

student means any child attending a South Australian Primary School.

Part 2—Establishment of the Education Reform Commission

5—Establishment of the Education Reform Commission

- (1) Commencement of the scheme will start at the beginning of the calendar year after proclamation of *The Progressive Education Act 2013*.
- (2) An Education Reform Commission is to be established and is to consist of the following members—
 - (a) South Australian Minister for Education;
 - (b) South Australian Shadow Minister for Education;
 - (c) ten South Australian Primary School Principals from the following areas—
 - (i) four Metropolitan Adelaide Primary principals, one principal from each Metropolitan district as follows—
 - (A) Northern District
 - (B) Southern District
 - (C) Western District
 - (D) Eastern District
 - (ii) two Independent School Principals;
 - (iii) two Rural South Australian Principals; and
 - (iv) two South Australian Principals or equivalent from the APY Lands; and
 - (d) one Education Reform Commissioner.
- (3) One full time position will be created to be known as the Commissioner of the Education Reform Commission.
 - (a) the Commissioner will be appointed by The Education Reform Commission.
 - (b) once appointed the Commissioner will become a part and head of the Commission.

- (c) the Commissioner will be elected for a period of four (4) years; however they cannot be in the role for more than two (2) terms which is the equivalent to eight (8) years.
- (4) All members of the Commission excluding the Commissioner will be elected for a period of three (3) years; however they cannot be on the Commission for more than three (3) terms, which is the equivalent to nine (9) years.

6—Regulation of the mandatory examination

- (1) Every two years the Commissioner will authorise the Commission to conduct a review to ensure that Mandatory Examination is maintaining the ACARA Standards.
- (2) Every year the Education Reform Commission will change the questions to each grades examination paper.

Part 3—Establishment of the Annual Mandatory Examination

7—Establishment of the examination

- (1) The Commission will create a mandatory exam for all students in the Grades of Foundation to Ten.
- (2) The ACARA Learning outcomes for the Australian National Curriculum for each grade will be the basis of the examination covering the outcomes of the following areas of learning—
 - (a) English;
 - (b) Mathematics;
 - (c) Science;
 - (d) History; and
 - (e) Geography.

8—Annual examination

The Annual Examination period will be on the fifth Wednesday of the fourth term of each academic year.

- (a) Each grade will have its own exam and set time periods as follows:
 - (i) Foundation to Grade One will have fifty (50) minutes to complete the exam. The exam for this Grade range will be completed in two blocks of twenty-five (25) minutes. A ten (10) minute break will be in between the two blocks. Taking the total time required to sixty (60) minutes
 - (ii) Grade two to three will have sixty (60) minutes to complete the examination. The exam for this Grade range will be completed in two blocks of thirty (30) minutes. A ten (10) minute break will be in

between the two blocks. Taking the total time required to seventy (70) minutes.

- (iii) Grades four to six will have ninety (90) minutes to complete the examination.
- (iv) Grades Seven to Nine will have one hundred and twenty (120) minutes to complete the examination.
- (v) Grade Ten will have one hundred and fifty (150) minutes to complete the examination period.

(b) Students with the following conditions will have extra time for the exam—

- (i) students with a diagnosed learning disability; or
- (ii) students on an NEP or in LAP.

9—Grading

- (1) Each South Australian Primary School will be responsible for grading their students examination papers,
- (2) Each South Australian Primary School will submit the following to the Education Reform Commission for external marking—
 - (a) ten per cent (10%) of the highest achieved scores and ten per cent (10%) of the lowest achieved scores from each grade must be submitted to the Commission for marking.
 - (b) the Commission will externally mark the examination papers to make sure marking has been done fairly across the entire State of South Australia.
- (3) Each student must pass the examination paper. If a student does not pass the examination paper retention will occur until they pass the exam in the following year.

10—Sunset Clause

The South Australian Parliament will review the *Progressive Education Act 2013* every four years after the election process of the Commissioner.

South Australia

Youth Violence Prevention and Intervention Bill 2013

Brief

This Youth Violence Prevention and Intervention Bill 2013 is designed to address the growing issue of youth violence throughout South Australia. This Bill addresses this issue by means of an educational reform through teaching young students about violence and associated issues in the community. As increasing numbers of youth are becoming involved with violence, this creates the ideology that violence is socially acceptable. This Bill seeks to change this ideology through mental rehabilitation as well as studies within South Australian schools between grades eight (8) to eleven (11).

This Bill also addresses youth violence via an external, Government funded organisation called ReStart SA, which provides prevention, intervention, rehabilitation and counselling to at risk, concerned and referred youth.²

² *Summary Offences Act 1953 (SA)* pt 3, cl 7
Children's Protection Act 1993 (SA) pt 2, div 3, cl 8B

South Australia

Youth Violence Prevention and Intervention Bill 2013

A BILL FOR

An Act to assist in the prevention and intervention of youth within South Australia involved in violence, drugs and alcohol and the implementation of an educational restructure pertaining to youth violence and associated issues; and for related purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Youth Violence Prevention and Intervention Act 2013*.

2—Commencement

This Act will come into operation on a date to be fixed by proclamation.

3—Objects of the Act

The objects of this Act are—

- (a) the implementation of an education restructure within existing subjects pertaining to youth violence and associated issues;
- (b) the creation and operation of a Youth Violence Prevention and Intervention Program; and
- (c) the creation of a structure at which staff and the operation of the Youth Violence Prevention and Intervention Program will be located.

4—Interpretation

In this Act, unless the contrary intention appears:

at risk youth means youth involved with youth crime, violence, and/or substance abuse, having problems with authority and law, theft or having poor academic performance;

DECD means the Department for Education and Child Development of South Australia;

EACSA means the Educational Application Committee of South Australia;

ReStart SA means the name of the infrastructure in which the Youth Violence Prevention and Intervention Program's services will be provided from;

SACE means South Australian Certificate of Education;

youth means those aged between the ages of 12 and 25 years of age;

Youth Studies means additional study pertaining to Mental Health, Youth Violence and associated issues.

Part 2—Education Reform

5—Application to school subjects

- (1) South Australian High Schools will be required to give students between grades eight (8) to eleven (11) a two-term school-based assignment, within a subject, so-named Youth Studies;
 - (a) This assignment will raise awareness of—
 - (i) Youth Violence;
 - (ii) Mental Health;
 - (iii) Drugs and alcohol; and
 - (iv) associated issues, as determined by the Educational Application Committee of South Australia.
 - (b) SACE accreditation credits may be attached to this assignment, at the discretion of EACSA (see Clause 6) and DECD.
- (2) EACSA, working in cohesion with the South Australian Education Department, will—
 - (a) predetermine the set criteria for Youth Studies in accordance with each individual year level.
 - (b) develop and distribute learning criteria to each South Australian school.
- (3) Between the end date of Term 4 and the 15th of January of each year, EACSA will investigate areas of importance that require improvement—
 - (a) by the 15th of January of the successive year, EACSA will send an updated learning criterion to schools outlining adjusted teaching plans if needed.

6—The Educational Application Committee of South Australia

- (1) The Educational Application Committee of South Australia (*EACSA*) is responsible for—
 - (a) managing the Youth Studies course created under s 5 of this Act;
 - (b) the creation and operation the Youth Violence Prevention and Intervention Program; and
 - (c) establishing appropriate infrastructure that will be known as ReStart SA, at which the staff and operation of the Youth Violence Prevention and Intervention Program will be located;

- (i) EACSA, working in cooperation with the Department of Planning, Transport and Infrastructure of South Australia will establish rural outlining buildings to seek accessibility for rural clients.
 - (ii) the Youth Violence Prevention and Intervention Program will also be accessible via online guidance support and mediation services.
- (2) Members of EACSA will consist of the following—
- (a) three (3) staff members of the Education Department of South Australia;
 - (b) a South Australian Police Officer, stationed within the Crime Prevention Unit;
 - (c) four (4) qualified specialists in the fields of mental health and/or youth violence; and
 - (d) optional members of the Education Minister of South Australia, Youth Minister of South Australia and the Mental Health and Substance Abuse Minister of South Australia.
- (3) All members of EACSA must currently hold a—
- (a) South Australian Police Clearance Certificate; and a
 - (b) Child and Youth Clearance in accordance with Children’s Protection Act 1993 (SA)

7—Requirements of Educational Application Committee members

- (1) The qualified specialist committee members (referred to in s 6(2)(c)) must—
- (a) be of 18 years of age or older;
 - (b) currently hold qualification/s and experience relating to areas of mental health and/or youth violence; and
 - (c) currently hold experience in Youth Work and qualifications in Youth Work or similar.
- (2) The Education Department committee members (referred to in s 6(2)(a)) must be—
- (a) working within the Education Department of South Australia for two (2) or more years, with experience in Committee Procedure and Education Application in South Australian Schools.

Part 4—The Youth Violence Prevention and Intervention Program

8—Employees of the Youth Violence Prevention and Intervention Program

- (1) Prevention and Intervention Officers and Case Workers will be established under EACSA, to—

- (a) provide mediation and referral services to youth;
 - (b) provide a neutral environment for youth to recuperate without threat of being arrested or reported for illegal activity, limited to Part 3, Clause 7 within the Summary Offences Act 1953; South Australia, if actively engaged; and
 - (c) provide drug, alcohol and mental health support services to youth via youth workers by means of full-time counselling and rehabilitation.
- (2) To be an eligible candidate for these staff positions, an applicant must—
- (a) be of 18 years of age or older;
 - (b) have suitable studies and experience (to be determined by EACSA) within youth support, drugs and alcohol support, and mental health;
 - (c) provide a current South Australian Police Check Certificate; and
 - (d) provide any drugs and/or alcohol history via a questionnaire as organised and conducted by EACSA.

9—Clients of the Youth Violence Prevention and Intervention Program

- (1) The objectives of the Youth Prevention and Intervention Program are to—
- (a) assist in the successful change to a positive and healthier lifestyle for youth, including at risk youth;
 - (b) prevent youth from future occurrences of becoming at risk; and
 - (c) provide rehabilitation and intervention for youth who are at risk or in danger of becoming at risk.
- (2) The Youth Prevention and Intervention Program is open to all youth between the ages of twelve (12) to twenty-five (25).
- (3) Upon completion of their successful rehabilitation, youth will be given a Certified Certificate of Completion and it will be at the discretion of the rehabilitated youth as to whether rehabilitation records are available to doctors and future employers to avoid any possible discrimination.

Part 5—Sunset Clause

10—Sunset clause

Two years from proclamation, this Act shall be reviewed by the Legislative Review Committee of South Australia.

South Australia

Criminal Law (Offences of Prejudice) Bill 2013

Brief

South Australia boasts an extraordinary community of people comprised of many diverse backgrounds. Such diversity is to be celebrated as to provide for a prosperous and cohesive society. Conversely, any such acts which jeopardise this must be met with severe criminal sanctions.

South Australia currently provides for laws prohibiting acts of vilification of people on the grounds of race under the *Racial Vilification Act 1996*³ of which is often categorised within a body of criminal law often referred to as ‘hate crimes’.⁴ Several jurisdictions within Australia also provide for ‘hate crime’ laws,⁵ in varying forms, that apply to broader crimes beyond vilification; this is also the case internationally.⁶

This Bill shall provide for penalty enhancement provisions and firearms restrictions for offenders who commit existing offences under the *Criminal Law Consolidation Act 1935*⁷ if an offence is aggravated by prejudice in a manner prescribed herein.

Furthermore, this Bill shall seek to limit the legal defence of provocation.⁸ In particular the limitation shall apply to an application of the defence which is colloquially known as the ‘gay panic’ defence.⁹ It should be noted that homophobia should hold no place or legitimacy within contemporary criminal law in South Australia.

³ *Racial Vilification Act 1996* (SA).

⁴ See generally Mark Walters, ‘Hate Crimes in Australia: Introducing Punishment Enhancers’ (2005) 29 *Criminal Law Journal* 201.

⁵ See, eg, *Crimes (Sentencing Procedure) Act 1999* (NSW) s 21A(2)(h); *Sentencing Act 1991* (Vic) s 5(2)(daaa).

⁶ See, eg, *Sentencing Act 2002* (NZ) s 9(1)(h); *Crime and Disorder Act 1998* (UK) c 37.

⁷ *Criminal Law Consolidation Act 1935* (SA).

⁸ *Ibid* s 11A.

⁹ See generally *Green v The Queen* (1997) 191 CLR 334.

South Australia

Criminal Law (Offences of Prejudice) Bill 2013

A BILL FOR

An Act to make provision for certain offences relating to biases, prejudices and hatreds of a specified nature; and for other purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Criminal Law (Offences of Prejudice) Act 2013*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Object of this Act

The objects of this Act are—

- (a) to provide for prosecutorial oversight and discretion with respect to how crimes prescribed by this Act are brought before the courts; and
- (b) to deter conduct of certain natures prescribed by this Act; and
- (c) to deliver and maintain public order from disruption caused by intolerance, bias and hostility shown towards certain groups of people.

4—Interpretation

In this Act, unless the contrary appears—

adjusted maximum penalty means the maximum prescribed penalty for an offence after being increased by the amount specified by this Act;

aggravated by prejudice has the same meaning as in section 9 of this Act;

aggravated offence has the same meaning as in section 5AA of the *Criminal Law Consolidation Act 1935*;

Court means any judicial body which has jurisdiction in South Australia;

designated class means a religion (or lack of), race, ethnic origin or sexual orientation;

hostility includes prejudice, intolerance, serious contempt, hatred and animosity;

membership includes association with members of a designated class;

presumed means presumed by the offender;

police officer means a police officer of or above the rank of sergeant;

Registrar means the Registrar of Firearms prescribed by the *Firearms Act 1977*;

youth has the same meaning as in Part 1 of the *Young Offenders Act 1993*.

5—Powers conferred by this Act are additional

Subject to this Act, the powers conferred on a Court by this Act are in addition to, and do not derogate from, the powers conferred by any other Act or law to impose a penalty upon, or make any order or give any direction in relation to, a person found guilty of an offence.

6—Effect of the Act

This Act has effect despite any other Act or law.

7—Application of the Act

This Act is a Special Act prescribed by the—

- (a) *Criminal Law (Sentencing) Act 1988*; and
- (b) *Firearms Act 1977*; and
- (c) *Summary Procedure Act 1921*.

Part 2—Offences

8—Consent to prosecute

- (1) A prosecution for an offence prescribed by this Part of the Act cannot be commenced without the Director of Public Prosecution's written consent.
- (2) If the offender is a youth, written consent shall only be issued if—
 - (a) in the opinion of the Director of Public Prosecutions the offence is of a particularly serious nature; and
 - (b) the youth has been declared a recidivist young offender under Part 2 Division 2A of the *Criminal Law (Sentencing) Act 1988*.

9—Definition

- (1) An offence is aggravated by prejudice for the purposes of this Act if—
 - (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based (wholly or partly) on the victim's membership (or presumed membership) of a designated class;

- (b) the offence is motivated (wholly or partly) by hostility towards members of a designated class based on their membership (or presumed membership) of that group; or
 - (c) the victim of the offence were intentionally selected by the offender because of characteristics perceived by the offender to be associated with their membership (or presumed membership) of a designated class.
- (2) It is immaterial for the purposes of this section whether or not the offender's hostility is also based, to any extent, on any other factor.
- (3) It is immaterial for the purposes of this section whether the offender identifies as being a member of the victim's designated class (or perceived designated class).

10—Application

- (1) If an offence prescribed by the *Criminal Law Consolidation Act 1935* is aggravated by prejudice, unless a contrary appears, the following shall apply—
- (a) For a basic offence the maximum penalty shall be increased as follows—
 - (i) the maximum term of imprisonment shall be increased by 30% whereby the number of years shall be rounded to the greater whole number.
 - (b) For an aggravated offence the maximum penalty shall be increased as follows—
 - (i) the maximum term of imprisonment shall be increased by 50% whereby the number of years shall be rounded to the greater whole number.
- (2) For an offence without a distinction between a basic offence and an aggravated offence, subsection (1)(a) shall apply.
- (3) If, however, the victim in a particular case, suffers an offence of such a serious nature that a penalty exceeding the adjusted maximum penalty is warranted, the court may, on application by the Director of Public Prosecutions, impose a penalty exceeding the adjusted prescribed maximum.

11—Restrictions on firearms

- (1) If someone is found guilty of an offence under a provision contained in this Part—
- (a) a police officer shall within a reasonable time issue an interim firearms prohibition order prescribed by the *Firearms Act 1977*.
 - (b) the Registrar shall within the specified period issue a firearms prohibition order prescribed by the *Firearms Act 1977*—

- (i) for a period no less than the prescribed maximum penalty of the offence, in the event of multiple offences the period is to be calculated cumulatively; and
- (ii) shall only, with the written consent of the Director of Public Prosecutions, allow any exemptions or special conditions to be provided for by the aforesaid order; and
- (iii) shall not, without the written consent of the Director of Public Prosecutions, revoke or vary such an order prior to its expiry.

Part 3—Miscellaneous

12—Limitation on the defence of provocation

For the purposes, of proceedings in which the defence of provocation may be raised, conduct of a sexual nature by a person does not constitute provocative conduct merely because the person was the same sex as the defendant.

13—Conviction to be minuted

- (1) When the court convicts an offender under Part 2 of this Act, the conviction when entered as a minute or memorandum prescribed by Part 4 Division 4 of the *Summary Procedure Act 1921* shall include—
 - (a) the substantive offence the offender was originally charged with under the *Criminal Law Consolidation Act 1935*; and
 - (b) immediately preceding the name of the substantive offence mentioned aforesaid, “(Hate Crime)”.
- (2) No fee shall be paid for any such minute or memorandum.

14—Review

Three years from proclamation this Act shall be reviewed by the Legislative Review Committee.

South Australia

Free Student Public Transport Act 2013

Brief

Fewer and fewer students are utilising public transport to provide access to and from their educational institution, discouraging others and causing them to turn to other forms of transportation. With this in mind, it is proposed that students will receive free public transport between certain hours of the day to encourage independence, and remove the financial burden on families.

With parents already spending exorbitant amounts on school fees and other expenses, a free transportation system for their children will remove the everyday stress and expenses associated with bus and train tickets.

The Act will allow primary, secondary, and tertiary students to learn responsibility and independence, encourage more people to use public transport, thus reducing CO₂ emissions, and ease the financial strain on families.

South Australia

Free Student Public Transport Act 2013

An Act to provide free public transport for all primary, secondary, and tertiary students who study in South Australia; and for related purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Free Student Public Transport Act 2013*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Object of this Act

The objects of this Act are—

- (a) to provide free public transport for all primary, secondary and tertiary students; and
- (b) to alleviate the financial burden in transporting children to and from school.

4—Interpretation

In this Act, unless the contrary appears—

calendar year means starting on 1 January and ending on 31 December;

educational institution means facilities in which education is provided at either a primary, secondary, or tertiary level;

full time study means any tertiary student undertaking study on a course load greater than 75%;

MetroCard means the existing electronic card used to travel on public transport;

primary means a student who is from Reception to Year Seven;

private means a non-government educational institution which is financed and managed outside the state system of education;

private arrangement means a private mode of transport that has been arranged to deliver students to and from school in rural areas;

public means an educational institution that is wholly Government funded in the state system of education;

public transport means communal transportation funded by the State Government of South Australia, including trains, trams and buses.

school means an educational facility which educates students from reception to the end of year thirteen;

secondary means a student who is from year eight to year twelve;

standard fares means the applicable fare as stipulated by Adelaide Metro;

student means anyone studying at an educational institution on a full time study load;

student card means a card issued by any educational institution as a form of identification;

tertiary means a student undertaking study at an educational facility, including University or TAFE on a full-time basis.

Part 2—Free Public Transport for Students

5—Restrictions

The State Government will provide free public transport to all primary, secondary and tertiary students, according to the following restrictions;

- (a) primary students will travel for free from 6:00am until 5:00pm Monday to Friday;
- (b) secondary students will travel for free from 6:00am until 8:00pm Monday to Friday;
- (c) tertiary students will travel for free from 6:00am until 12am on all days; and
- (d) free public transport will not be provided to primary or secondary students during school holidays, however, tertiary students will still have access to free public transport during holidays.

6—Travel outside designated times

If students travel on public transport outside of the designated times, they will be required to pay the standard public transport fare.

Part 3—Implementation

7—Governance

- (1) All students will receive a student card at the commencement of each calendar year which will also act as a MetroCard—
- (2) The Student/MetroCard will be able to be used at all times, subject to the following restrictions—
 - (a) if a student travels outside the designated times, they will be charged the applicable standard fare;
 - (b) the balance of the fare will be deducted from a student's MetroCard; and
 - (c) money can be transferred onto the MetroCard using the current system.
- (3) The State Government of South Australia will work in conjunction with schools, Adelaide Metro, its subcontractors and schools that have private transportation arrangements to provide cards for students.
- (4) If a student misplaces their student card, they will be required to pay the applicable standard fare until they obtain a replacement.
 - (a) students will need to contact their educational institution to obtain a replacement.
- (5) Rural educational facilities that provide private travel arrangements for students shall have the costs of these arrangements reimbursed by the State Government of South Australia.

South Australia

Organ Sponsorship and Quality Act 2013

Brief

The objective of this Act is to institute government-based sponsorship for living organ donors and through comprehensive research provide a long term and permanent solution to the demand for transplantable organs.

Statistics collected by DonateLife SA effectively illustrate an ongoing deficiency of transplantable organs in Australia¹⁰. This deficiency as modeled by DonateLife (2012) exemplifies how only half of people on the waiting list are likely to receive an organ.

Government sponsorship will provide a short-term solution to the ongoing deficiency of transplantable organs by providing a form of incentive to facilitate an increase in the number of donors. To ensure the safety of the donor and receiver of the donor's organ, the donor must be able to prove beyond a reasonable doubt that they are a reasonable person and free of disease. This will mean that no individual may be compelled to donate an organ if it is not of his or her own free will to do so. Similarly, no person who receives a donor organ will be at risk of receiving an ill-gained or diseased organ.

The long-term solution for the organ deficit problem is to establish a research facility that will focus on improving current medical techniques used in organ transplantation in addition to investigating other promising fields of research that may accomplish the objectives of this Act. The aim of the research facility is to conduct research that will eliminate the need for organ donors.

¹⁰ DonateLife SA, *Performance Report 2012* (22/01/2013) DonateLife
<http://www.donatelife.gov.au/media/docs/performance_report_for_2012.pdf>

South Australia

Organ Sponsorship and Quality Act 2013

An Act to provide short and long term solutions to the current deficit of transplantable organs; and for related purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Organ Sponsorship and Quality Act 2013*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Object of this Act

The objects of this Act are—

- (a) to establish a committee who shall develop regulations sourced from and through the advice of experts to provide a best practise model that supports the scheme to provide government sponsorship to living donors;
- (b) to establish a registry where people may nominate to become donors, which shall keep track of the demand for organs and house the records of donation and paid incentives; and
- (c) to establish a research facility where medical professionals can research to improve medical techniques with respect to the transplantation of organs and research other practise models to supplement the deficiency of transplantable organs.

4—Interpretation

In this Act, unless the contrary appears—

cadaveric organ donor means a deceased individual capable of donating tissue or organs;

cerebral death means irreversible brain damage and loss of brain function, as evidenced by cessation of breathing and other vital reflexes, unresponsiveness to stimuli, absence of muscle activity, and a flat electroencephalogram for a length of

time, defined in the guidelines established by the ANZICS as no earlier than six hours. Further, diagnosis of brain death must be certified by two doctors¹¹;

live organ donor means an individual from whom blood, tissue, or an organ is taken for transfusion, implantation, or transplant;

organ means non-regenerative tissue that performs one or more specialised function(s) in the human body;

reasonable person means an individual who has undertaken a medical and psychological evaluation and is determined to be of sound mind, body and judgement.

registry means an office where official records are kept and people are able to register their interest in becoming a donor;

senior means an individual with ten years or more of experience in their respective field.

Part 2—Establishment of a Committee for Organ Donation

5—Organ Donation Committee

A committee will be established under the name Organ Donation Committee, and will be funded by the Department of Health; it will consist of—

- (a) the Minister for Health;
- (b) the State Medical Director of DonateLife SA; and
- (c) three senior medical professionals as selected by The State Medical Director of DonateLife SA.

6—Role of the Organ Donation Committee

The Organ Donation Committee and their departments are responsible for establishing a framework and code of conduct by which the registry and all medical authorities in South Australia may act under to ensure safe practises are used to meet the objectives of the Act. These responsibilities include but are not limited to—

- (a) establish a strict set of rules and regulations that dictate the process that an individual must undertake to be classified as a reasonable person for the purposes of this Act;
- (b) establish the guidelines by which an individual may receive an organ; and

¹¹ Australian and New Zealand Intensive Care Society (23/03/98), *Recommendations on Brain Death and Organ Donation (2nd Edition)*, ANZICS
<[https://www.health.gov.au/internet/main/publishing.nsf/Content/44C31BEA3BFAD230CA25728200081A5B/\\$File/200005braindeathorgandonation.pdf](https://www.health.gov.au/internet/main/publishing.nsf/Content/44C31BEA3BFAD230CA25728200081A5B/$File/200005braindeathorgandonation.pdf)>

- (c) establish the guidelines that define what form of incentive the donor is entitled to receive.

Part 3—Establishment of a Registry for Organ Donation

7—A registry for organ donation

The registry will be established to operate within the framework provided by the Organ Donation Committee to regulate, develop and implement strategies to increase the number of organ donations in South Australia.

- (a) the Organ Donation Committee may appoint staff under their office or designate in writing a person to appoint staff within the offices of the registry.
- (b) the Organ Donation Committee may appoint a person to the office of Overseer of Practices to oversee the practices conducted by the registry.
- (c) the Overseer of Practices is responsible for reporting annually to Parliament the effectiveness of strategies and operations undertaken in the previous financial year.

8—Eligibility

- (1) A donor shall be eligible to receive incentives for their organ donation if they—
 - (a) are eighteen or more years of age; and
 - (b) meet the criteria established by the Organ Donation Committee through a process of medical screening and psychological evaluation.
- (2) Eligibility with regards to persons under the age of eighteen shall be assessed on a case-by-case basis by the Organ Donation Committee.

Part 4—Organ Research Facility

9—Creation of Organ Research Facility

An organ research facility shall be established with a focus on finding a long-term solution to the organ deficit. This facility shall—

- (a) be established under the supervision of the Organ Donation Committee;
- (b) conduct research to improve the acceptance rate of transplanted organs amongst recipients;
- (c) conduct research to increase the quality of transplantable organs and transplant techniques; and
- (d) undertake research into the viability of current and future medical technologies which show promise in combating the organ deficit.

10—Sunset Clause

Ten years after proclamation this Act shall be reviewed by the Legislative Review Committee.

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South Australia

Indigenous Education Studies Act 2013

Brief

The issue that this Act is trying to reform is the education of Indigenous Australia. Currently there is not a form of education that teaches the history of Australia and the Indigenous peoples of the land. As a result there is a risk of this heritage becoming less known around the community. As well as this, the chance for non-Indigenous students to learn about the history of the country is something that is not being focused on at this time.

This is an issue and it does not allow a way to communicate the history into the current and next generation of Australians. As well as this, the current generation of students does not have a way of gaining history of their own state. There is a risk that the culture of Indigenous Australia might be forgotten.

This Act will allow students to become educated about Australia's Indigenous heritage. It will give Indigenous students a chance to learn more about their state and history as well as teaching non-Indigenous students about this history.

South Australia

Indigenous Education Studies Act 2013

An Act to create a compulsory course of Indigenous education for secondary school; and for related purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Indigenous Education Studies Act 2013*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Object of this Act

The objects of this Act are—

- (a) To integrate an Indigenous course into all secondary schools around South Australia; and
- (b) To educate students into the history and culture of the Indigenous Australia of the state

4—Interpretation

In this Act, unless the contrary appears—

Indigenous means the original inhabitants of the Australian continent and nearby islands and the descendants of these peoples;

Cultural Law means the culture and etiquette of the Indigenous Australian that is a code of behaviour that delineates expectations for social behaviour according to contemporary conventional norms within a society;

Secondary School means a school of education that is both classified in public and private funding which, but isn't restricted to grade 8 to grade 12.

Part 2—Education

5—Schools

- (1) All secondary schools in the state will have a mandatory single unit Indigenous Studies class for all students to students to complete in their tenth grade level for a single study period.

- (2) The material studied under this topic will include but be not restricted to—
 - (a) historical events including—
 - (i) Significant leaders;
 - (ii) Significant events; and
 - (iii) Significant Land.
 - (b) Cultural law and etiquette; and
 - (c) Indigenous spirituality.
- (3) The material for this course will be decided by South Australia’s Department for Education and Child Development and Aboriginal Affairs and Reconciliation Division
- (4) Schools will also include an elective single unit Indigenous language course. This course will teach students the language of the local area.
- (5) The duration of this course will be for a single study period for students in grade 10

6—Teachers

- (1) A class of a maximum of 30 students will be appointed a teacher.
- (2) If a class exceeds the maximum number, more teachers will be appointed for each 30 students.
- (3) Existing teachers at the schools will be eligible to teach the course.
- (4) Before the beginning of each study period, teachers will be given a course study guide. This will include but not be restricted to—
 - (a) weekly plans of the study course;
 - (b) general background of the topics;
 - (c) websites and external references for information on subjects and topics; and
 - (d) details to allow teachers to contact members of the local Indigenous community.
- (5) Teachers will also be required to attend a seven-hour program to educate them on information and resources for the course.

7—Students

- (1) Students must pass this course, failure to do so will result in repeating the course.
- (2) A government funded information booklet will be issued to each student. These books will include but are not restricted to—

- (a) reading material for each week's topics;
- (b) background information on Indigenous Australia; and
- (c) external websites and resources.

Part 3—Sunset Clause

8—Sunset Clause

A review of this program will be conducted by South Australia's Department for Education and Child Development, three years after the commencement date.

South Australia

Fireworks Regulation Bill 2013

Brief

Team North Metro wish for South Australia to lead the way in the legislation of Fireworks by removing the restrictions and allowing them to be sold freely to people 18 years or over. Currently, every State and Territory in Australia holds a strong stance against Fireworks and completely bans them unless you register for a Type 2 Licence. Northern Territory permits sale of fireworks to the public on Northern Territory Day. It is also worth noting that the United Kingdom permits sale of fireworks to general public.

Whilst these restrictions may have good intentions in mind, it does not cover those who will purchase illegal fireworks that are often imported from overseas with no quality control. This often results in dodgy fireworks in circulation creating more injuries and/or serious incidents.

Team North Metro believe that with the removal of such restrictions and imposing harsh penalties for breaches of the legislation, will encourage people to buy fireworks with quality assurance proven which should lower the numbers of illegal fireworks in circulation. Team North Metro believes this will also increase the number of jobs within Australia and promote tourism to South Australia thus promoting our economic stimulus.

South Australia

Fireworks Regulation Bill 2013

A BILL FOR

An Act to reduce restrictions and regulate use, production, and sale of fireworks for the general population; and for related purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Fireworks Regulation Act 2013*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Object of this Act

The objects of this Act are—

- (a) to permit the sale and use of fireworks;
- (b) to regulate the quality of fireworks;
- (c) to establish a curfew limiting the use of fireworks; and
- (d) to impose penalties for breaches of this Act.

4—Interpretation

In this Act, unless the contrary appears—

Act means the Firework Regulations Act 2013;

adult means any person the age of eighteen (18) or older;

category for a definition of firework categories, see s 5;

CFS means Country Fire Service;

class means the rating of category 2 fireworks;

event refers to an activity where fireworks are used in a non-personal setting including but not limited to commercial excluding production;

firework means—

- (a) a manufactured firework item;
- (b) an item designed or adapted to contain or include an explosive that on ignition burns or explodes to produce a visual or aural effect;
- (c) flash powder or other pyrotechnic substance;
- (d) does not include a distress signal or munitions.

general use synonyms with Category 1;

ignite means a firework includes initiate a firework (and “ignition” has a corresponding meaning);

ledger means a book used to record purchases of fireworks

licence means—

- (a) a pyrotechnician’s licence; or
- (b) a pyrotechnic displays business licence; or
- (c) a pyrotechnic sales business licence;

Minister refers to the office of the Minister for Manufacturing, Innovation and Trade;

Part 2— Use of Fireworks

5— Firework Categories

(1) Category 1 (General Use) fireworks

- (a) all fireworks that are currently used by the general population of all ages are now classed as ‘Category 1 - General Use’ fireworks; that is including but not limited to: pop cap guns, bonbons, party poppers and sparklers.
- (b) all category 1 fireworks must be safe to hold while ignited.

(2) Category 2 fireworks

(a) Class A—Close Proximity Fireworks

- (i) must not scatter any debris;
- (ii) must be safely viewable in restricted areas; and
- (iii) must be safe to hold while ignited.

(b) Class B—Standing and Spinning Fireworks

- (i) must not scatter debris beyond a one (1) metre range; and
- (ii) must be safely viewable from two (2) metres away.

- (c) Class C—Aerial Fireworks
 - (i) must not scatter debris beyond a five (5) metre range; and
 - (ii) must be safely viewable from 25 metres away.
- (3) Category 3 fireworks include—
 - (a) any firework which has not been tested by an accredited pyro-technician and subsequently categorised;
 - (b) any firework which exceeds the limits of lower categories; and
 - (c) any imported firework that exceeds the limitations of Category 1.

6—Storage and Transport of Fireworks

Stored fireworks, including during transport must—

- (a) be kept away from any sources of heat or ignition;
- (b) be kept dry at all times;
- (c) be stored in their original packaging where possible;
- (d) not be stored with any other flammable material or device; and
- (e) be stored in a locked container, excepting category 1 fireworks.

7—Ignition of Fireworks

Fireworks shall only be ignited under the following conditions—

- (a) fireworks are only to be used after sunset and no later than midnight; except on weekends, public holidays and the day preceding a weekend or public holiday where the cut-off time shall be extended to 3am. Except in the case of an event approved by the Minister.
- (b) prior to igniting any category 2 or 3 firework, permission shall be sought from the local CFS or MFS.
- (c) no category 2 or 3 fireworks are to be used during a fire ban, except when approved by the Minister after a risk assessment conducted by the CFS or MFS and only by an accredited pyro-technician.
- (d) minors are only allowed to use and ignite category 1 fireworks.
- (e) when igniting a category 2C or 3 firework, protective eyewear must be worn.
- (f) category 3 fireworks must only be purchased, stored and possessed by a Minister accredited pyro-technician.

- (g) category 3 fireworks may only be ignited by a Minister accredited pyro-technician after consultation with a OHS&W officer.
- (h) there are no heat sources or flammable material within a ten (10) metre radius.
- (i) all precautions have been taken to ensure that the fireworks are being used in a safe and appropriate manner and will not cause any subsequent fires.
- (j) appropriate planning and measures have been taken to put out any unwanted fire caused by the firework including, but not limited to said firework.
- (k) the person igniting the firework must not be smoking.

8—Responsibilities

- (1) Fireworks are explosives, treat them as such.
- (2) Parental supervision is highly recommended for any minors attempting to ignite category 1 fireworks.
- (3) The person(s) that is igniting the fireworks is liable for any damages caused by the setting off of said firework.
- (4) It is the responsibility of the person(s) igniting the fireworks to do so at their discretion and that all requirements of setting off a firework are in compliance with this Act.
- (5) It is a joint responsibility of the spectators and the person(s) igniting the firework that the spectators maintain a safe viewing distance.

Part 3—Sale and Manufacture of Fireworks

9—Sale

Any business shall be permitted to sell fireworks; so long as—

- (a) the business obtains a license to sell fireworks from the Minister, bar general use fireworks;
- (b) all firework purchases, bar category 1, are to be recorded in a ledger. The ledger shall be—
 - (i) maintained by the supplier of said pyrotechnics;
 - (ii) available to police, the Minister and governing bodies on request; and
 - (iii) kept for a minimum of one (1) year on the premises of sale.
- (c) the business adheres to the following limitations—
 - (i) category 1 (General use) fireworks may be sold to minors and adults of the general public;

- (ii) only categories 1 and 2 fireworks may be sold to adults of the general public; and
- (iii) category 3 fireworks may only be sold to accredited pyro-technicians.

10—Manufacture

All category 2 fireworks must be made in Australia overseen by a Minister accredited pyro-technician.

Part 4—Penalties

11— Retribution for Misuse

- (1) Not to be used on public streets—Expiation Notice issued by South Australia Police for \$363 + \$60 VOC Levy.
- (2) Purchase of category 2 fireworks by a minor—
 - (a) \$1 000 fine for the minor
 - (b) \$5 000 fine for the seller
 - (c) \$20 000 fine for the business of sale, if applicable
 - (i) if the business breaches this five (5) times they lose their licence to sell fireworks.
- (3) Person not seeking approval from CFS or MFS prior to igniting firework
 - (a) \$20 000 and loss of right to purchase, possess or ignite a firework for a minimum of three (3) years.
- (4) Organisation or Corporation not seeking approval from CFS or MFS prior to igniting firework—
 - (a) \$1,000,000 fine.

12—Sunset clause

Three years from proclamation this Act shall be reviewed by the Minister for Manufacturing, Innovation and Trade

South Australia

Cultural Awareness and Mandated Facial Identification Bill 2013

Brief

South Australia is a multicultural state in that it is composed of diverse people from all around the world, complete with varying races and religions. There are often misconceptions held by the general public unfamiliar with those with varying beliefs and traditions which can lead to discrimination and racism. This Bill aims to educate the population, across all demographics, on the major religions followed throughout the world, including their core tenets, their customs and traditions and their beliefs and how they are applied to everyday life, so as to reduce the level of discrimination and racism in South Australia.

This Bill also aims to increase public safety by regulating the places in which any person is allowed to obscure his/her face, for identification purposes in the case of an emergency. These issues are linked as it is most often as a religious requirement that a person would obscure their face, and such religions as Islam have been used as a disguise for those with ill-intent in a public place wishing to hide their identity. Through mandating facial identification in high-risk public places, the general standard of public safety is increased and religious customs cannot be misused and misrepresented in this way.

South Australia

Cultural Awareness and Mandated Facial Identification Bill 2013

A BILL FOR

An Act to better educate the general public in relation to alternate cultures and to increase public safety; and for related purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the Cultural Awareness and Mandated Facial Identification Act 2013.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Object of this Act

The objects of this Act are—

- (a) To better educate the general public in relation to alternate cultures so as to lessen discrimination and bias; and
- (b) To increase public safety through mandated facial identification in certain public places.

4—Interpretation

In this Act, unless the contrary appears—

general public means the general population of South Australia, including all demographics and cultural backgrounds;

public place means a place other than a private dwelling or property, including places of business;

appropriate representative means a person capable to properly represent the views of the person or office they are representing;

objective means not influenced by personal feelings, opinions or beliefs;

culture means a way of life of a group of people including customs, traditions, beliefs, values and religious views; and

top source country (TSC) means one of the countries from which the largest proportion of immigrants to Australia immigrate from: Afghanistan, Burma, China, India, Indonesia, Iraq, Ireland, Malaysia, Philippines, South Africa, South Korea, Sri Lanka, United Kingdom and Vietnam.

Part 2—Cultural Awareness

5—Advertising Campaigns

Objective media advertising campaigns illustrating:

- (a) the cultures of the top source countries for immigrants to Australia; and
- (b) common misconceptions about these cultures and why they are wrong; including but not limited to print, television and radio will be implemented state-wide for a period of no less than three (3) years.

6—Compulsory School-based Education Modules

- (1) Compulsory education modules will be introduced and taught on a yearly basis to all year levels in all primary schools in South Australia.
- (2) These education modules will include but not be limited to:
 - (a) an objective view of each of the cultures of the TSCs,
 - (b) the defining features of these cultures, and
 - (c) the main customs and practices of each of these cultures.
- (3) The duration, format and appropriate content for each respective age group will be determined by a Committee created for this purpose (the Committee for Cultural Awareness in Schools)

7—Establishment of the Committee for Cultural Awareness in Schools

- (1) The Committee for Cultural Awareness in Schools will consist of:
 - (a) the Minister for Education and Child Development or an appropriate representative of the Minister;
 - (b) the Minister for Multicultural Affairs or an appropriate representative of the Minister;
 - (c) four (4) experts in the field of South Australian education;
 - (d) an expert in the field of each of the cultures of the TSCs;

Part 3—Public Safety

8—Increasing the general standard of public safety

- (1) The wearing of any garment or accessory which obscures the face will be made illegal in public places where the ability to identify individuals in the event of a threat to public safety is imperative;
- (2) These public places will include but not be limited to:
 - (a) Banks and Credit Unions;
 - (b) airports;
 - (c) Government embassies; and
 - (d) highly populated sporting venues.
- (3) Appropriate signage detailing the regulations will be clearly visible and presented in a number of different languages in the designated public places;
- (4) Any person wearing a garment or accessory that obscures the face in any one of these locations will first be asked by a staff or security official to remove the obstruction (in the case of a person wearing a burqa, they will be asked to remove their burqa in the presence of a female security member in an appropriate location and have their identity recorded);
- (5) If the person does not comply with the request, they will be escorted from the premises and may face a court hearing where the maximum penalty will be ten thousand dollars (\$10,000) or a jail term of six (6) months; and
- (6) The review of the afore-mentioned public places as well as proposals for additional locations will be at the discretion of a committee established for this purpose (the Committee for the Enhancement of Public Safety).

9—Establishment of the Committee for the Enhancement of Public Safety

- (1) The Committee for the Enhancement of Public Safety (referred to in this section as *the Committee*) will consist of:
 - (a) the Minister for the Status of Women or an appropriate representative of the Minister;
 - (b) the Minister for Multicultural Affairs or an appropriate representative of the Minister;
 - (c) four (4) experts in the field of public safety; and
 - (d) an expert in the field of each of the cultures where it is sometimes customary for a person to obscure their face.
- (2) The Committee will be responsible for:
 - (a) the determination of which public places being able to facially identify an individual is imperative in the event of a threat to public safety;

- (b) ensuring that cultural bias is not a factor in the choice of afore-mentioned places; and
- (c) the annual review of those public places affected by this Act, taking into account any pertinent changes in security or circumstance which may affect the need for facial identification.

South Australia

Family Planning Options Act 2013

Brief

South Australia is a forward thinking state whereby we have largely enshrined a woman's right to access an array of family planning options. This is in accordance with our progressive societal values.¹²

This Act acknowledges that women are competent decision-makers in their own right and that the medical termination of a pregnancy is a matter of public policy relating to health rather than the criminal law. Prior to this Act the medical termination of a pregnancy has been predominately regulated under the *Criminal Law Consolidation Act 1935*¹³ and prescribed regulations¹⁴; with the commencement of this Act this shall no longer be the case.

This Act furthermore seeks to implement the ease of access for women less than 16 weeks who wish to terminate their pregnancy, whilst still allowing for mostly unrestricted access to the procedure for women who are more than 16 weeks and less than 28 weeks pregnant.

This Act intends to supersede criminal provisions relating to the safe and lawful termination of a pregnancy,¹⁵ as the current vehicle of law propagates that it is simply a legal exemption from prosecution. This Act notes and commends, with reservations, Tasmania's recent move to remove legal barriers and criminal sanctions¹⁶ with respect to their laws of a similar nature.

This Act furthermore respects the broad spectrum of views pertaining to this issue whilst recognising the weight and gravity of any advice given to a woman by a medical practitioner or counsellor in relation to the decision-making process.

¹² Lachlan J De Crespigny et al, 'Australian Attitudes to Early and Late Term Abortions' (2010) 193 *Medical Journal of Australia* 9.

¹³ *Criminal Law Consolidation Act 1935* (SA).

¹⁴ *Criminal Law Consolidation (Medical Termination of Pregnancy) Regulations 2011* (SA).

¹⁵ *Criminal Law Consolidation Act* s 82A.

¹⁶ Reproductive Health (Access to Terminations) Bill 2013 (Tas).

South Australia

Family Planning Options Act 2013

An Act to regulate the termination of pregnancies by medical practitioners; and for related purposes.

The Youth Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Family Planning Options Act 2013*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Object of this Act

The objects of this Act are—

- (a) to regulate the medical termination of a pregnancy;
- (b) to provide for enforceable duties and obligations that medical practitioners and counsellors must follow when operating within circumstances prescribed by this Act; and
- (c) to ensure that the medical termination of a pregnancy is under the responsibility of the Minister pursuant to the *Administrative Arrangements Act 1994*.

4—Interpretation

In this Act, unless the contrary appears—

counsellor means a person who holds themselves out as a provider of a counselling service, or conducts themselves in a manner consistent with a provider of a counselling service, whether or not that service or conduct is engaged in, or provided, for fee or reward;

medical practitioner means a person registered under the *Health Practitioner Regulation National Law* to practice in the medical profession (other than as a student);

Minister means the relevant Minister responsible for the administration of the *Health Care Act 2008*;

pregnancy options advice means advice or information relating to pregnancy options including continuing a pregnancy or terminating it;

terminate means to preclude a pregnancy so that it does not proceed to birth by—

- (a) using an instrument, or a combination of instruments; or
- (b) using a drug or a combination of drugs; or
- (c) by any other means or methods pursuant to regulations made under this Act—

but does not include the supply or procurement of anything, including but not limited to, a drug or a combination of drugs, or an instrument or a combination of instruments, used for the purposes of precluding the continuance of a pregnancy.

woman means a female person of any age.

5—Effect of the Act

This Act has effect despite any other Act or law.

Part 2—Access

6—Terminations by medical practitioner at not more than 16 weeks

The pregnancy of a woman who is not more than 16 weeks pregnant may be terminated by a medical practitioner with the woman's consent.

7—Terminations by medical practitioner after 16 weeks

- (1) The pregnancy of a woman who is more than 16 weeks pregnant may be terminated by a medical practitioner with the woman's consent if the medical practitioner, in good faith, reasonably believes—
 - (a) that the continuance of the pregnancy would involve greater risk to the life of the pregnant woman, or greater risk of injury to the physical or mental health of the pregnant woman, than if the pregnancy were terminated; or
 - (b) that there is a substantial risk that, if the pregnancy were not terminated and the child were born to the pregnant woman, the child would suffer from such physical or mental abnormalities as to be seriously handicapped.
- (2) In assessing the risk referred to in subsection (1), the medical practitioner must have regard to the woman's actual or reasonably foreseeable physical, psychological, economic and social circumstances.
- (3) The medical practitioner referred to in subsection (1) shall be a medical practitioner who specialises in obstetrics and/or gynecology.
- (4) This section shall also apply to any woman who is not more than 16 weeks pregnant, who has been precluded from being subject to section 5 of this Act, by a provision prescribed by this Act.
- (5) Notwithstanding subsection (1) a medical practitioner may carry out the termination of a pregnancy, if the medical practitioner, forms an opinion, in good faith, that the termination

is immediately necessary to save the life, or to prevent grave injury to the physical or mental health, of the pregnant woman.

8—Conditional provisions

- (1) Section 6 of this Act does not apply to any woman who—
 - (a) has not resided in South Australia for a period of at least two months before seeking the termination of pregnancy;
 - (b) is subject to a guardianship order prescribed by the *Guardianship and Administration Act 1993*;
 - (c) has attempted to obtain, whether the child, when born, may be of a particular sex; or
 - (d) has an agent entitled to act under medical power of attorney prescribed by the *Consent to Medical Treatment and Palliative Care Act 1995*.
- (2) This Part does not apply to any woman who is, at that time, pregnant with a child capable of being born alive.
- (3) The provisions of this Part do not apply to, or in relation to, a person who, with intent to destroy the life of a child capable of being born alive, by any willful act causes such a child to die before it has an existence independent of its mother where it is provided that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.
- (4) For the purposes of this section, evidence that a woman had at any material time been pregnant for a period of twenty-eight weeks or more shall be *prima facie* proof that she was at that time pregnant of a child capable of being born alive.
- (5) Treatment for the termination of the pregnancy prescribed by this Part shall be carried out in a hospital, or a hospital of the class, declared by regulation to be a prescribed hospital, or a hospital of a prescribed class, for the purposes of this Act.

9—Duty to treat

- (1) Subject to s 9(2), no medical practitioner has a duty to participate in any treatment prescribed by this Part if the practitioner has a conscientious objection to terminations.
- (2) A medical practitioner has a duty to perform a termination prescribed by s 7(5) of this Act.

10—Rights and obligations

- (1) Subject to subsection (3), if a woman seeks a termination or pregnancy options advice from a medical practitioner and the practitioner has a conscientious objection to terminations, the practitioner must refer the woman to another medical practitioner who the first mentioned practitioner reasonably believes does not have a conscientious objection to terminations.

- (2) If a woman seeks pregnancy options advice from a counsellor and the counsellor has a conscientious objection to terminations the counsellor must refer the woman to another counsellor who the first mentioned counsellor reasonably believes does not have a conscientious objection to terminations.
- (3) Subsection (1) does not apply to a medical practitioner who has a duty prescribed by section 9 subsection (3) of this Act.
- (4) A medical practitioner or counsellor who contravenes or fails to comply with a provision of this section is guilty of an offence—

Maximum penalty:

- (a) for a single offence—\$5,000;
- (b) for each subsequent offence thereafter—\$20,000 or two (2) years imprisonment.

Part 3—Miscellaneous

11—Regulations

- (1) The Governor may make regulations—
 - (a) declaring a particular hospital or a class of hospitals to be a prescribed hospital or a prescribed class of hospitals for the purposes of this Act;
 - (b) for requiring any medical practitioner who terminates a pregnancy, and the superintendent or manager of the hospital in which the termination is carried out, to give notice and legal justification for the termination pursuant to this Act;
 - (c) for prohibiting the disclosure, except to such persons or for such purposes as may be prescribed, of notices or information given pursuant to the regulations; and
 - (d) for providing for, and prescribing, any penalty, not exceeding \$200, for any contravention of, or failure to comply with, any regulations.
- (2) In the absence of regulations having been prescribed pursuant to subsection (1)(a), Schedule 3 of the *Criminal Law Consolidation (Medical Termination of Pregnancy) Regulations 2011* shall be declared hospitals of the class, for the purposes of section 8 subsection (5) of this Act.

12—Review

Five years from proclamation this Act shall be reviewed by the Legislative Review Committee.