



Australian Capital Territory

# **Schools Authority Act 1976      No 59**

**Republication No 4 (RI)**

**Effective: 12 September 2001**

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Last amendment made by Act 2001 No 44

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Schools Authority Act 1976* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 18 April 2002. It also includes any amendment, repeal or expiry affecting the republished law to 12 September 2001.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Schools Authority Act 1976

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Australian Capital Territory

# Schools Authority Act 1976

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An Act to establish an Australian Capital Territory Schools Authority

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Schools Authority Act 1976*.

### 4 Definitions for Act

In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

**authority** means the authority established by this Act.

**board** means the board of a school.

**chief education officer** means the person appointed under section 8 (1) to be the authority.

**community group** means an identifiable group, whether incorporated or unincorporated, of persons organised for a common purpose, or common purposes, of a public, welfare, social, recreational or similar character.

**community purpose** means a purpose of a public, welfare, social, recreational or similar character that is calculated to benefit the members, or advance the common purpose or purposes, of a community group.

**corporal punishment** means physical force applied to punish or correct, and includes any action designed or likely to cause physical pain or discomfort taken for such purpose.

**non-government school** means a school in the ACT that is not conducted, or proposed to be conducted, by or on behalf of the Territory, but does not include a school conducted, or proposed to be conducted, for the profit, direct or indirect, of an individual or individuals.



*parent* includes step-parent and guardian.

*school* means—

- (a) any school or college established and conducted in the ACT;  
and
- (b) any school or other educational or related institution approved  
by the Minister;

under section 6 (1) (a).

## **Part 2                                      Establishment, functions and powers of schools authority**

### **5                      Establishment of schools authority**

There is established by this Act an authority by the name of the Australian Capital Territory Schools Authority.

### **6                      Functions of authority**

- (1) The functions of the authority are—
  - (a) to establish and conduct in the ACT, on behalf of the Territory—
    - (i) preschools, primary schools, high schools and secondary colleges; and
    - (ii) any other schools and other educational or related institutions that the Minister may from time to time approve; and
  - (b) to establish and conduct in the ACT, on behalf of the Territory any other educational services that the Minister approves; and
  - (c) to establish and conduct in the ACT, on behalf of the Territory, any educational or related services that the Minister directs.
- (2) The authority shall so exercise its functions as to ensure that adequate provision is made for persons attending, or seeking to attend, preschools and schools conducted by the authority.
- (3) The authority shall ensure that any disciplinary policy implemented at a school precludes corporal punishment.
- (4) The authority shall exercise its functions in accordance with any directions given by the Minister.
- (5) A school that was, immediately before self-government day, to be deemed to be conducted by the authority on behalf of the

Commonwealth shall, on and after that date, be conducted by the authority on behalf of the Territory.

- (6) The authority shall include in each report it presents under the *Annual Reports (Government Agencies) Act 1995*, section 8 details of—
- (a) any approvals given by the Minister under subsection (1) (a) (ii) or (b); and
  - (b) any directions given by the Minister under subsection (1) (c) or (4).

## **7 Powers of authority**

- (1) Subject to subsection (2), the authority has power to do all things that are necessary or convenient to be done for or in connection with the exercise of its functions and, in particular, without limiting the foregoing—
- (a) to enter into contracts; and
  - (b) to hold land under a lease or tenancy; and
  - (c) to occupy and use land or buildings made available to the authority by the Territory; and
  - (d) to engage consultants to advise the authority on any matter; and
  - (e) to enter into arrangements with any person or authority for the use of personnel, services, facilities or equipment in connection with the exercise by the authority of its functions; and
  - (f) to maintain liaison with other authorities, agencies and persons concerned with the provision of education or the conduct of schools, whether in the ACT or elsewhere; and
  - (g) to accept gifts, devises, bequests and assignments made to the authority, whether on trust or otherwise, and to act as trustee of money or other property vested in the authority on trust; and

- (h) to enter into arrangements with a community group for the use by that group for a community purpose of land or buildings made available to the authority by the Territory.
- (2) The authority is not authorised to purchase any estate or interest in land or to erect or purchase buildings.
- (3) Nothing in subsection (1) shall be read as giving the authority a power to enter into a contract of employment.
- (4) Notwithstanding anything contained in this Act, any money or property held by the authority on trust shall be dealt with in accordance with the powers and duties of the authority as trustee.

#### **7A Access to and use of authority programs and services**

- (1) Subject to this section, the authority may, by written notice, with the approval of the Minister, grant permission to—
  - (a) non-government schools; and
  - (b) technical and further education institutions; and
  - (c) eligible institutions and eligible agencies;to have access to, and use of, programs, buildings, facilities and services conducted or provided by, or made available through, the authority on behalf of the Territory.
- (2) For subsection (1) (c), the Minister may, in writing, determine an institution or an agency to be an eligible institution or an eligible agency.
- (3) A notice under subsection (1) may grant permission for the period, and subject to the restrictions and conditions, that may be specified in the notice.

#### **7B Determination of preschool fees**

- (1) The Minister may, in writing, determine fees in relation to the attendance by persons at preschools.

- (2) Fees determined by the Minister are payable to the authority.
- (3) A determination under subsection (1) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

## **7C Exemptions**

The Minister may, in writing, exempt a specified person or a person included in a specified class of persons from the requirement to pay a fee determined under section 7B (1).

## Part 3 Administration

### 8 Constitution of authority

- (1) The Minister shall in writing appoint a person to be the authority.
- (2) The authority—
  - (a) is a corporation sole by the name of the Australian Capital Territory Schools Authority; and
  - (b) has perpetual succession; and
  - (c) shall have an official seal; and
  - (d) is capable, in the corporate name of the authority, of suing and being sued.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the authority attached to a document and shall presume that it was duly attached.

### 9 Tenure of office

- (1) The chief education officer holds office—
  - (a) for the period, not exceeding 7 years, that is specified in the instrument of appointment; and
  - (b) on the terms and conditions (if any) in respect of matters not provided for by this Act that are determined by the Minister.
- (2) The chief education officer is eligible for reappointment.
- (3) Subsection (1) does not authorise the Minister to determine terms and conditions relating to superannuation.
- (4) A person who has attained the age of 65 years shall not be appointed or reappointed as the authority, and a person shall not be appointed or reappointed as the authority for a period that extends beyond the date he or she will attain the age of 65 years.

**11 Leave of absence**

- (1) The Minister may grant leave of absence to the chief education officer on any terms and conditions as to remuneration or otherwise that the Minister determines.
- (2) For this section—
  - (a) a grant of leave of absence; and
  - (b) the determination of the terms and conditions of that grant;shall be in writing.

**12 Resignation**

The chief education officer may resign his or her office by writing signed by the officer and delivered to the Minister.

**13 Termination of appointment**

- (1) The Minister may terminate the appointment of the chief education officer because of misbehaviour or physical or mental incapacity.
- (2) The Minister shall terminate the appointment of the chief education officer if the officer—
  - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
  - (b) is absent from duty, except on leave granted by the Minister, for 14 consecutive days or for 28 days in any period of 12 months; or
  - (c) except with the approval of the Minister, engages in paid employment otherwise than for this Act.

**14 Acting appointment**

- (1) The Minister may in writing appoint a person to act as the authority—
  - (a) during a vacancy in the office of the authority, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when the chief education officer is absent from duty or from the ACT or is, for any other reason, unable to exercise the functions of the office;but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) The appointment of a person under subsection (1) may be expressed to have effect only in the circumstances that are specified in the instrument of appointment.
- (3) If a person is appointed to act as the authority in accordance with subsection (1) (b) and the office of the authority becomes vacant while that person is so acting, then, subject to subsection (2), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date the vacancy occurred expires, whichever first happens.
- (4) The Minister may—
  - (a) determine the terms and conditions of appointment (other than terms and conditions relating to superannuation) of a person appointed under this section; and
  - (b) terminate the appointment at any time.
- (5) The appointment of a person to act as the authority ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Minister.
- (6) While a person is acting as the authority, the person has, and may exercise, all the powers, and shall perform all the functions, of the authority.



- (7) Anything done by or in relation to a person purporting to act under this section is not invalid on the ground that—
- (a) the occasion for the person's appointment had not arisen; or
  - (b) there is a defect or irregularity in connection with the person's appointment; or
  - (c) the person's appointment had ceased to have effect; or
  - (d) the occasion for the person to act had not arisen or had ceased.

## **Part 5                      Staff**

### **28      Staff of authority**

- (1) The staff of the authority shall be employed under the *Public Sector Management Act 1994*.
- (2) The *Public Sector Management Act 1994* applies in relation to the management of the staff of the authority.

## Part 6 Finance

### 29 Money of authority

- (1) There is payable to the authority any money—
  - (a) appropriated by the Legislative Assembly for this Act; and
  - (b) received for or in relation to the use by a community group of land or buildings made available to the authority by the Territory; and
  - (c) paid by a person to the authority if acceptance of the money would be consistent with the purposes for which the money is paid and the authority considers it appropriate that the money should be so accepted; and
  - (d) received by the authority, other than money referred to in subsection (2) or (3), in the exercise of its functions.
- (2) Money payable to the authority shall include money provided to the authority in relation to an educational or related program approved by the Minister for this subsection.
- (3) The authority may, in writing, declare that specified money, or money included within a specified class of money, being money purported to be received by the board of a school, or received by a person representing the school, or in respect of an activity conducted by the school for the general purposes, or a particular purpose, of the school (whether before or after the commencement of the *Schools Authority (Amendment) Act 1983*), shall be payable to the authority and the money, or money included in the class of money, is payable to the authority accordingly.
- (4) The Executive may give directions as to the amounts in which, and the times at which, money referred to in subsection (1) (a) is to be paid to the authority.

**30 Assets of authority**

The authority may, in writing, declare specified property—

- (a) purported to be purchased by, donated to or otherwise acquired by a board; or
- (b) other than property referred to in paragraph (a), in the custody of a board; or
- (c) acquired by a person in respect of an activity conducted by a school for the general purposes, or a particular purpose, of the school;

whether before or after the commencement of the *Schools Authority (Amendment) Act 1983*, to be an asset of the authority, and on the making of the declaration that property shall be taken, for this Act, to be an asset of the authority.

**31 Application of money of authority**

The money of the authority shall be applied only—

- (a) in payment or discharge of the costs, expenses, charges, obligations or liabilities incurred or undertaken by the authority in or in connection with the exercise of its functions; and
- (b) in payment of any remuneration, fees and allowances payable under this Act; and
- (c) in making any other payments that are required or permitted by this Act to be made out of the money of the authority.

**32 Application of Financial Management Act and Auditor-General Act**

The *Financial Management Act 1996* and the *Auditor-General Act 1996* apply in relation to the authority as if the authority were a part of the prescribed department.

## Part 7 School boards

### 36 Interpretation for pt 7

(1) In this part:

*full-time student* means a student who is attending classes at a school during a total period of class time that is not less than 12 hours per week.

*full-time teacher* means a person appointed or engaged under the *Teaching Service Act 1972* (Cwlth), part 3, division 2 for the performance of teaching duties within the meaning of that Act in a school otherwise than on a part-time or casual basis.

*half-year* means a period of 6 months ending on 30 June or 31 December.

*high school* means a school declared by the authority to be a high school for this part.

*member* means a member of the board of a school.

*primary school* means a school declared by the authority to be a primary school for this part.

*principal*, in relation to a school or college, means the person occupying, or performing the duties of, the office of principal.

*secondary college* means a school declared by the authority to be a secondary college for this part.

*small school* means a school if less than 4 teachers are employed, but does not include a school or other educational or related institution referred to in section 6 (1) (a) (ii).

*year* means the period of 12 months commencing on 1 January.

(2) A reference in this part to the parents and citizens association of a school or college is a reference to the association of persons, by

whatever name called, that is declared by the authority to be the parents and citizens association of the school or college, for this part.

- (3) A reference in this part to a *school* does not include a reference to a preschool referred to in section 6 (1) (a) (i).
- (4) Subject to this section, *prescribed period*, in relation to the term of office of a member of a board (other than a principal), means the period commencing on 1 March in the year of election of the member or the date of his or her election, whichever is the later, and ending at the end of that month of February that falls not less than 12 months and not more than 24 months after the commencement of the period.
- (5) For a person who is appointed to be a member of a board, subsection (4) applies as if for the word 'election' there were substituted the word 'appointment'.
- (6) The authority may direct that the term of office of the members of a board be extended so as to end on the last day of February next succeeding the date that term would have ended apart from this subsection.
- (7) A direction may not be given under subsection (6) after the term of office of the members of a board (other than the principal of the school), has ended.
- (8) A direction under subsection (6) may not be given in relation to a term of office that has already been extended under that subsection.

### **37 Establishment of school boards**

The authority shall direct that, on and from a date specified by the authority, a school conducted by the authority shall have a board.

**38 Functions of school boards**

- (1) The functions of the board of a school are—
  - (a) to determine the educational policies to be implemented at the school; and
  - (b) to assess, from time to time, the needs of the school in relation to the provision of buildings and facilities, equipment, funds and teachers and other staff and make recommendations to the authority with respect to the meeting of those needs; and
  - (c) to determine the purposes for which funds made available for the school are to be expended; and
  - (d) to make recommendations to the authority in relation to the use of the buildings, facilities and equipment of the school for purposes other than school purposes; and
  - (e) to develop relationships between the school and the community and between the school and community organisations; and
  - (f) to ensure that any disciplinary policy implemented at the school precludes corporal punishment; and
  - (g) to make recommendations to the authority on matters relating to the school; and
  - (h) to exercise any other functions that the authority gives to the board.
- (2) The authority shall, if necessary, enter into discussions with boards and, if necessary, may give any directions it considers appropriate regarding the way in which the functions of a board or of boards generally are to be exercised.
- (3) In the exercise of its functions, a board shall comply with the directions (if any) given by the authority under subsection (2) and applicable to that board.

**39 Powers of school boards**

- (1) Subject to this section, a board has power to do the things that are necessary or convenient to be done for, or in connection with, the performance of its functions.
- (2) Nothing in this part derogates from the functions and powers given to the authority by part 2.
- (3) The exercise of a function by the board of a school does not affect the exercise by the authority of its functions in relation to that school.
- (4) In its conduct of a school, the authority is not required—
  - (a) to accept, or act in accordance with, a recommendation of the board of the school; or
  - (b) to implement a policy determined by the board of the school.

**40 Constitution of school boards**

- (1) Subject to subsection (2), the board of a school shall consist of—
  - (a) the principal of that school; and
  - (b) 1 member appointed by the authority; and
  - (c) 2 members elected by teachers employed at the school; and
  - (d) 3 members elected by the parents and citizens association of the school; and
  - (e) the member or members (if any) appointed under subsection (6).
- (2) For a high school or a secondary college the board shall include, in addition to the members specified in subsection (1), 2 members, being full-time students at the school, elected by the students at the school.



- (3) A person is not eligible to hold office as a member referred to in subsection (1) (c) unless he or she is employed as a full-time teacher at the school.
- (4) Subject to this Act, a member referred to—
- (a) in subsection (1) (b) holds office during the prescribed period and is eligible for reappointment; and
  - (b) in subsection (1) (c) or (d) or (2) holds office during the prescribed period and is eligible for re-election.
- (5) If a member referred to in subsection (1) (c) or (d) or (2) ceases to hold office before the end of his or her term of office, the authority may appoint a person—
- (a) for a member referred to in subsection (1) (c)—elected by the teachers employed at that school from among full-time teachers at the school; or
  - (b) for a member referred to in subsection (1) (d)—nominated by the parents and citizens association of the school; or
  - (c) for a member referred to in subsection (2)—elected by the students at that school from among full-time students at the school;
- to hold office as a member of the board for the balance of that term of office.
- (6) Subject to subsection (8), the board of a school may, by writing signed by the chairperson of that board, appoint a person or persons, for the period (not longer than 12 months) specified in the instrument of appointment, to be a member or members of the board.
- (7) A person appointed under subsection (6) is eligible for reappointment.

- (8) The board of a school is not authorised to appoint a person under subsection (6) so as to cause—
- (a) for a primary school—3 or more persons; or
  - (b) for a high school or secondary college—4 or more persons;
- to hold office at the same time under appointments under that subsection.
- (9) A member of a board appointed under subsection (6) is entitled to attend meetings of the board but is not eligible to vote.
- (10) In this section:
- school* does not include a small school, or a school or educational or related institution referred to in section 6 (1) (a) (ii).

#### **41 Constitution of boards of small schools**

- (1) The board of a small school shall consist of—
- (a) the principal of that school; and
  - (b) 1 member appointed by the authority; and
  - (c) 1 member who is a teacher employed at the school; and
  - (d) 2 members elected by the parents and citizens association of the school; and
  - (e) the member (if any) appointed under subsection (6).
- (2) A member referred to in subsection (1) (c) shall be—
- (a) appointed by the authority in accordance with a written nomination lodged with the authority and signed by—
    - (i) the teacher proposed in the nomination to become a member; and
    - (ii) all other teachers employed at the school; or

- (b) if no such nomination is lodged before the end of the specified date—appointed by the authority.
- (3) For subsection (2), the authority shall, not later than 28 days before the specified date, give each teacher employed at the school a notice requesting that a nomination be made, and setting out the specified date.
- (4) Subject to this Act, a member referred to in—
  - (a) subsection (1) (b) holds office during the prescribed period, and is eligible for reappointment; or
  - (b) subsection (1) (c) holds office during the prescribed period, and is eligible for reappointment; or
  - (c) subsection (1) (d) holds office during the prescribed period, and is eligible for re-election.
- (5) If a member referred to in subsection (1) (c) or (d) ceases to hold office before the end of his or her term of office, the authority may—
  - (a) for a member referred to in subsection (1) (c)—appoint, in accordance with the procedures set out in subsections (2) and (3), a teacher employed at the school; or
  - (b) for a member referred to in subsection (1) (d)—appoint a person nominated by the parents and citizens association of the school;  
to hold office as a member of the board for the balance of that term of office.
- (6) The board of a small school may, by writing signed by the chairperson of that board, appoint a person, for the period (not longer than 12 months) specified in the instrument of appointment, to be a member of the board.
- (7) A person appointed under subsection (6) is eligible for reappointment.

(8) A person appointed under subsection (6) is entitled to attend meetings of the board but is not eligible to vote.

(9) In this section:

*specified date* means a date specified by the authority for lodgment with the authority, by the teachers employed at a small school, of a nomination referred to in subsection (2).

## **42 Constitution of boards in special cases**

(1) The authority may determine, in writing, with the written approval of the Minister, the constitution of the board of a school or other educational or related institution referred to in section 6 (1) (a) (ii) and may appoint a person to be a member of that board in accordance with that determination.

(2) In considering whether to grant an approval under subsection (1), the Minister shall have regard to—

- (a) the advantages of conformity, if appropriate, to the constitution of a board referred to in section 40; and
- (b) the need for the principal to be a member of the board; and
- (c) the need for the authority to be represented on the board; and
- (d) whether consultations relating to the constitution of the board have been held with groups, as appropriate, of teachers, parents and citizens and students, employed at or associated with the school or other institution; and
- (e) any representations made by such groups in relation to the constitution of the board; and
- (f) the administrative needs and educational or related objectives and any special characteristics of the school or other institution.

(3) A person who is appointed to be a member of a board under subsection (1) shall hold office for the period specified by the authority in the instrument of appointment.

- (4) In this section:

*principal* means the principal of a school or other institution referred to in subsection (1), and includes a person having responsibility for the conduct of the school or other institution.

#### **43 Termination of office**

- (1) The authority shall remove from office as a member of a board a person who has ceased to be eligible to hold that office.
- (2) If a member of a board, other than the principal of the school, is absent, except on leave granted by the board, from 3 consecutive meetings of the board—
  - (a) the chairperson of the board shall inform the authority of the absence of the member from those meetings; and
  - (b) the authority shall remove the member from office.
- (3) The authority may remove a member of a board, other than the principal of the school, from office for misbehaviour.

#### **44 Resignation of members of boards**

A member of the board of a school, other than the principal of the school, may resign his or her office by writing signed by him or her and delivered to the chairperson of the board.

#### **45 Chairperson of a board**

- (1) A board shall, as occasion requires, appoint 1 of its members, other than the principal of the school or a teacher employed at the school, to be chairperson of the board.
- (2) Subject to this part, a member appointed under subsection (1) holds office as chairperson of the board for the remainder of his or her term of office as a member of the board.

- (3) A member appointed under subsection (1) may resign his or her office of chairperson of the board by writing signed by him or her and delivered to the authority.
- (4) If a person appointed under subsection (1) ceases to hold office as a member of the board before the end of his or her term of office as a member, he or she ceases to hold office as chairperson of the board.
- (5) A member of a board is eligible to be reappointed as chairperson of the board.

#### **46 Meetings**

- (1) The chairperson of the board of a school, or if, for any reason, the chairperson of the board is not available, the principal of the school may call meetings of the board.
- (2) The authority may, by written notice given to the chairperson of a board, request that a meeting of the board be called for the purpose of considering the matter or matters specified in the notice.
- (3) Without prejudice to any other method of giving the notice, a notice may be given to the chairperson of a board for subsection (2) by delivering the notice, addressed to the chairperson, to the principal of the school.
- (4) If notice has been given to the chairperson of a board for subsection (2), the chairperson shall hold a meeting of the board by giving to each member of the board not less than 3 days written notice of the date, time and place of the meeting and of the matter or matters specified in the notice given under subsection (2).
- (5) At a meeting called for subsection (3), no business shall be dealt with except business arising out of a matter specified in the notice given for subsection (2).
- (6) The chairperson of a board shall preside at all meetings of the board at which he or she is present.

- (7) If the chairperson of a board is not present at a meeting of the board, the members present shall appoint 1 of their number to preside at the meeting.
- (8) A quorum at a meeting of a board is constituted—
- (a) for the board of a primary school—by not less than 4 members of whom—
    - (i) 1 at least is a member elected under section 40 (1) (c) or appointed by the authority under section 40 (5) (a); and
    - (ii) 1 at least is a member elected under section 40 (1) (d) or appointed by the authority under section 40 (5) (b); and
  - (b) for the board of a high school or secondary college—by not less than 5 members of whom—
    - (i) 1 at least is a member elected under section 40 (1) (c) or appointed by the authority under section 40 (5) (a); and
    - (ii) 1 at least is a member elected under section 40 (1) (d) or appointed by the authority under section 40 (5) (b); and
  - (c) for the board of a small school—by not less than 3 members, of whom—
    - (i) 1 at least is a member referred to in section 41 (1) (c) or appointed by the authority under section 41 (5) (a); and
    - (ii) 1 at least is a member elected under section 41 (1) (d) or appointed by the authority under section 41 (5) (b); and
  - (d) for a board constituted under section 42 in relation to a school or other educational or related institution referred to in section 6 (1) (a) (ii)—by a number of members that is not less than  $\frac{1}{2}$  of the total number of members, of which number—
    - (i) if any member is appointed to represent teachers employed at that school or other institution—1 is such a member; and

- (ii) if any member is appointed to represent parents and citizens associated with that school or other institution—1 is such a member; and
  - (iii) if any member is appointed in respect of special objectives or characteristics of that school or other institution—1 is such a member.
- (9) Questions arising at a meeting of a board shall be determined by a majority of the votes of the members present and voting.
- (10) The person presiding at a meeting of a board has a deliberative vote only.
- (11) If there is a vacancy in the office of chairperson of a board and, apart from this subsection, the board would not be able to appoint a member to be chairperson of the board, the authority may call a meeting of the board.

#### **47 Functions of board not affected by vacancies**

The exercise of the functions of a board is not affected by a vacancy or vacancies in the membership of the board.

#### **48 Board of school to prepare budget**

- (1) A board shall cause to be prepared for each year a budget, in the form the authority approves, in relation to money to be received and expended by that board on behalf of the authority for that year and, if the authority so directs, for any other period specified by the authority, and the board shall approve a budget so prepared on a date not later than the date the authority specifies.
- (2) If a budget in relation to money is approved under subsection (1), that money shall not be expended otherwise than in accordance with that budget.



**48A Application of money by board**

The board of a school shall apply money of the authority only in payment or discharge of the costs, expenses, charges, obligations or liabilities incurred or undertaken for the purposes of the authority in or in connection with the exercise of its functions in relation to that school.

**48B Proper accounts to be kept**

- (1) A board shall cause to be kept proper accounts and records of the transactions and affairs of the board and shall do all things necessary to ensure that all payments are correctly made and properly authorised and that adequate control is maintained over assets of the authority in the custody of the board.
- (2) Accounts and records referred to in subsection (1) shall be kept in the form that the authority, or a person authorised by it in writing, may from time to time prescribe.

**48C Board to prepare financial statement and report**

- (1) A board shall, as soon as practicable after the end of each half-year, but not later than the date the authority may direct, cause to be prepared and given to the authority a financial statement, in the form the authority approves, setting out details of the receipt and expenditure of all money of the authority received, held or expended by or under the authority of the board during that half-year, together with any other particulars that the authority may require.
- (2) A board shall, as soon as practicable after the end of each year, but not later than the date that the authority may direct, cause to be prepared an annual report on the operations of the board during that year.
- (3) A report prepared in accordance with subsection (2) shall include a financial statement referred to in subsection (1) for each of the 2 half-years that make up the year to which the report relates.

**48D Copies of budget and annual report to be provided**

- (1) The board of a school shall, not later than 14 days after the approval of a budget in accordance with section 48 (1), provide copies of that budget—
  - (a) for a school referred to in section 6 (1) (a) (i), to—
    - (i) the parents of students at the school; and
    - (ii) the teachers employed at the school; and
    - (iii) for a high school or secondary college—the students at the school or college; and
  - (b) for a school or other educational or related institution referred to in section 6 (1) (a) (ii), to—
    - (i) any parents of students at the school or other institution; and
    - (ii) any teachers employed at the school or other institution; and
    - (iii) any other persons who are associated with the school or other institution, or who have an interest in its special objectives or characteristics, that the board may determine.
- (2) The board of a school shall, not later than 14 days after the preparation of an annual report referred to in section 48C (2), provide copies of that report to the authority and—
  - (a) for a school referred to in section 6 (1) (a) (i), to—
    - (i) the parents of students at the school; and
    - (ii) the teachers employed at the school; and
    - (iii) for a high school or secondary college—the students at the school or college; and

- (b) for a school or other educational or related institution referred to in section 6 (1) (a) (ii), to—
  - (i) any parents of students at the school or other institution; and
  - (ii) any teachers employed at the school or other institution; and
  - (iii) any other persons who are associated with the school or other institution, or who have an interest in its special objectives or characteristics, that the board may determine.

#### **49 Acting appointments**

- (1) In this section:

*elected member*, in relation to the board of a school, means—

- (a) a member elected by teachers employed at the school; or
- (b) a member elected to represent parents and citizens; or
- (c) a member elected by students at the school.

- (2) If—

- (a) an elected member of a board is, or is expected to be, absent from the ACT; or
- (b) an elected member of a board is unable, through illness or other cause, to attend meetings of the board;

the board may appoint a person to act as a member of the board during the absence or inability, as the case may be.

- (3) If a person ceases to hold office as an elected member of a board before the end of his or her term of office, the board may appoint a person to act as a member of the board while the office remains vacant.

- (4) The validity of anything done by a person purporting to act under this section shall not be called in question on the ground that the occasion for his or her acting has not arisen or that the occasion for his or her acting had passed or had ceased.
- (5) The appointment of a person under this section is not invalidated, and shall not be called in question, because of a deficiency or irregularity in, or in connection with, his or her appointment.

## **Part 8                      Parent participation in preschools**

### **50      Authority to take steps to facilitate parent participation in conduct of preschools**

The authority shall, in the exercise of its functions in relation to a preschool, take the steps that are necessary to encourage, and afford adequate opportunities for, parents of children attending the preschool to participate in the conduct of that preschool.

## Part 9 Miscellaneous

### 54 Rights of chief education officer

If the chief education officer was, immediately before his or her appointment, a public servant or a person to whom the *Officers' Rights Declaration Act 1928* (Cwlth) applied, the officer retains his or her existing and accruing rights.

### 55 Protection of persons

A person who is, or has been—

- (a) the chief education officer; or
- (b) a person appointed to act as the authority; or
- (c) a member of the board of a school;

is not liable to an action or other proceeding for or in relation to an act done or omitted to be done in good faith in exercise or purported exercise of any function, given to the person in that capacity.

### 56 Notices may be given by post

A notice for this Act may be given by post.

### 57 Regulation-making power

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may make provision in relation to—

- (a) the conduct of elections for part 7; and
- (b) the setting aside of an election for part 7 and the conduct of a new election; and

- (c) appeals to the administrative appeals tribunal against decisions made under the regulations in relation to an election for part 7.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	RI = reissue
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired



### 3 Legislation history

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

#### Legislation before becoming Territory enactment

##### **Schools Authority Act 1976 No 59**

notified 15 November 1976

s 1, s 2 commenced 15 November 1976 (s 2 (1))

ss 3-35 and ss 50-57 commenced 1 January 1977 (s 2 (2) and Gaz 1976 No G51)

s 39-49 commenced 1 April 1977 (s 2 (2) and Cwlth Gaz 1977 No S40)

as amended by

##### **Ordinances Revision Ordinance 1978 No 46 sch 1**

notified 28 December 1978

commenced 28 December 1978

##### **Schools Authority (Amendment) Ordinance 1979 No 11**

notified 30 May 1979

commenced 2 June 1979 (s 3)

##### **Schools Authority (Amendment) Ordinance 1983 No 63**

notified 30 December 1983

commenced 1 January 1984 (s 2)

##### **Schools Authority (Amendment) Ordinance 1985 No 28**

notified 1 July 1985

commenced 1 July 1985 (s 2)

##### **Schools Authority (Amendment) Ordinance 1987 No 70**

notified 22 December 1987

commenced 31 December 1987 (s 2 and Cwlth Gaz 1987 No S365)

##### **Schools Authority (Amendment) Ordinance 1988 No 2**

notified 10 February 1988

commenced 10 February 1988

## Endnotes

3 Legislation history

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**Schools Authority (Amendment) Ordinance (No 2) 1988 No 65**

notified 21 September 1988  
commenced 21 September 1988

**Interim Territory Planning Ordinance 1988 No 88**

notified 21 December 1988  
s 1, s 2 commenced 21 December 1988  
remainder commenced 31 January 1989 (s 2 and Cwlth Gaz 1989 No S38)

**Self-Government (Consequential Amendments) Ordinance 1989 No 38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S160)  
s 1, s 2 commenced 10 May 1989 (s 2 (1))  
sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989 No S164)

**Legislation after becoming Territory enactment**

**Statutory Authorities (Audit Arrangements) Act 1990 No 25 pt 14**

notified 22 June 1990 (Gaz 1990 No S29)  
s 1, s 2 commenced 22 June 1990 (s 2 (1))  
pt 14 commenced 22 June 1990 (s 2 (2) and Gaz 1990 No S35)

**Statute Law Revision (Miscellaneous Provisions) Act 1993 No 1 sch 1**

notified 1 March 1993 (Gaz 1993 No S23)  
commenced 1 March 1993

**Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 73**

notified 30 June 1994 (Gaz 1994 No S121)  
s 1, s 2 commenced 30 June 1994 (s 2 (1))  
sch 1 pt 73 commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

**Financial Management and Audit (Consequential and Transitional Provisions) Act 1996 No 26 sch pt 31**

notified 1 July 1996 (Gaz 1996 No S130)  
commenced 1 July 1996 (s 2)

**Schools Authority (Amendment) Act 1997 No 18**

notified 29 May 1997 (Gaz 1997 No S136)  
commenced 29 May 1997 (s 2)

**Remuneration Tribunal (Consequential Amendments) Act 1997 No 41 sch 1 (as am by Act 2002 No 49 pt 3.19)**

notified 19 September 1997 (Gaz 1997 No S264)  
 commenced 24 September 1997 (s 2 as am by Act 2002 No 49  
 amdt 3.222)

**Schools Authority (Amendment) Act 1998 No 8**

notified 10 June 1998 (Gaz 1998 No S160)  
 commenced 10 June 1998 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 360**

notified 26 July 2001 (Gaz 2001 No 30)  
 s 1, s 2 commenced 26 July 2001 (IA s 10B)  
 pt 360 commenced 12 September 2001 (s 2 and see Gaz 2001 No  
 S65)

**Statute Law Amendment Act 2002 (No 2) No 49 amdt 3.222**

notified LR 20 December 2002  
 s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))  
 amdt 3.222 commenced 24 September 1997 (s 2 (3))

*Note* This Act only amends the Remuneration Tribunal  
 (Consequential Amendments) Act 1997 No 41.

**4 Amendment history****Commencement**

s 2 om 2001 No 44 amdt 1.3880

**Administration**

s 3 om 1978 No 46 sch 1

**Definitions for Act**

s 4 def **acting chief education officer** om 1987 No 70 s 4  
 def **Australian Capital Territory Teachers' Federation** om  
 1993 No 1 sch 1  
 def **board** ins 1983 No 63 s 4  
 def **chairman** om 1987 No 70 s 4  
 def **chairperson** ins 1988 No 65 s 3  
 om 1998 No 8 s 4  
 def **chief education officer** ins 1987 No 70 s 4  
 def **committee** ins 1988 No 65 s 3  
 om 1998 No 8 s 4

## Endnotes

### 4 Amendment history

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def **community group** ins 1983 No 63 s 4  
def **community purpose** ins 1983 No 63 s 4  
def **corporal punishment** ins 1997 No 18 s 4  
def **House of Assembly** ins 1979 No 11 s 4  
om 1987 No 70 s 4  
def **Legislative Assembly** om 1979 No 11 s 4  
def **member** ins 1988 No 65 s 3  
om 1998 No 8 s 4  
def **non-government school** ins 1983 No 63 s 4  
am 1989 No 38 sch 1  
def **school** ins 1983 No 63 s 4

#### Functions of authority

s 6 am 1983 No 63 s 5; 1988 No 65; 1989 No 38 sch 1; 1996 No 26  
sch pt 31; 1997 No 18 s 5; 1998 No 8 s 5; ss renum R4 LA

#### Powers of authority

s 7 am 1983 No 63 s 6; 1988 No 88 sch; 1989 No 38 sch 1; 1994  
No 38 sch 1 pt 73; ss and pars renum R4 LA

#### Access to and use of authority programs and services

s 7A ins 1983 No 63 s 7  
am 1989 No 38 sch 1

#### Determination of preschool fees

s 7B ins 1988 No 2  
am 2001 No 44 amdt 1.3881, amdt 1.3882

#### Exemptions

s 7C ins 1988 No 2

#### Administration

pt 3 hdg sub 1987 No 70 s 5

#### Australian Capital Territory Schools Authority

pt 3 div 1 hdg ins 1988 No 65 s 5  
om R4 LA

#### Constitution of authority

s 8 sub 1987 No 70 s 5  
am 1988 No 65 s 6

#### Tenure of office

s 9 sub 1987 No 70 s 5

#### Remuneration and allowances

s 10 am 1979 No 11 s 5  
sub 1985 No 28 s 4; 1987 No 70 s 5  
om 1997 No 41 sch 1

**Leave of absence**

s 11 am 1983 No 63 s 8; 1985 No 28 s 5  
sub 1987 No 70 s 5  
am 1988 No 65 s 7

**Resignation**

s 12 sub 1987 No 70 s 5

**Termination of appointment**

s 13 sub 1987 No 70 s 5

**Acting appointment**

s 14 sub 1987 No 70 s 5  
am 1988 No 65 s 8

**Schools authority advisory committee**

pt 3 div 2 hdg ins 1988 No 65 s 9  
om 1998 No 8 s 6

**Establishment of committee**

s 15 am 1979 No 11 s 6; 1983 No 63 s 9; 1985 No 28 s 6  
om 1987 No 70 s 5  
ins 1988 No 65 s 9  
om 1998 No 8 s 6

**Function and powers of committee**

s 16 sub 1985 No 28 s 7  
om 1987 No 70 s 5  
ins 1988 No 65 s 9  
om 1998 No 8 s 6

**Constitution of the committee**

s 17 am 1985 No 28 s 8  
om 1987 No 70 s 5  
ins 1988 No 65 s 9  
om 1998 No 8 s 6

**Resignation of member**

s 18 am 1979 No 11 s 7; 1983 No 63 s 10; 1985 No 28 s 9  
om 1987 No 70 s 5  
ins 1988 No 65 s 9  
om 1998 No 8 s 6

**The chief education officer**

pt 4 hdg om 1987 No 70 s 5

**Termination of appointment**

s 19 am 1983 No 63 s 11  
om 1987 No 70 s 5  
ins 1988 No 65 s 9  
om 1998 No 8 s 6

## Endnotes

### 4 Amendment history

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#### **Acting chairperson**

s 20 om 1987 No 70 s 5  
ins 1988 No 65 s 9  
om 1998 No 8 s 6

#### **Meetings**

s 21 om 1987 No 70 s 5  
ins 1988 No 65 s 9  
om 1998 No 8 s 6

#### **Disclosure of interests**

s 22 om 1987 No 70 s 5  
ins 1988 No 65 s 9  
om 1998 No 8 s 6

#### **Resignation**

s 23 om 1987 No 70 s 5

#### **Termination of office**

s 24 om 1987 No 70 s 5

#### **Chief education officer not to undertake other work**

s 25 om 1987 No 70 s 5

#### **Acting education officer**

s 26 om 1987 No 70 s 5

#### **Age limit for appointment**

s 27 om 1987 No 70 s 5

#### **Staff of authority**

s 28 am 1989 No 38 sch 1  
sub 1994 No 38 sch 1 pt 73

#### **Money of authority**

s 29 sub 1983 No 63 s 12  
am 1989 No 38 sch 1

#### **Assets of authority**

s 30 sub 1983 No 63 s 12

#### **Application of money of authority**

s 31 sub 1983 No 63 s 12

#### **Application of Financial Management Act and Auditor-General Act**

s 32 sub 1983 No 63 s 12; 1996 No 26 sch pt 31

#### **Investment of money**

s 33 sub 1983 No 63 s 12  
am 1989 No 38 sch 1  
om 1996 No 26 sch pt 31

**Audit Act to apply**

s 34                      om 1983 No 63 s 12  
                              ins 1990 No 25 s 17  
                              om 1996 No 26 sch pt 31

**Financial reporting and audit**

s 34A                    ins 1990 No 25 s 17  
                              om 1996 No 26 sch pt 31

**Contracts requiring ministerial approval**

s 35                      am 1988 No 65 s 10  
                              om 1996 No 26 sch pt 31

**Interpretation for pt 7**

s 36                      am 1983 No 63 s 13; 1989 No 38 sch 1; ss renum R4 LA

**Functions of school boards**

s 38                      am 1997 No 18 s 6; pars renum R4 LA

**Constitution of school boards**

s 40                      sub 1983 No 63 s 14

**Constitution of boards of small schools**

s 41                      sub 1983 No 63 s 14

**Constitution of boards in special cases**

s 42                      sub 1983 No 63 s 14

**Chairperson of a board**

s 45                      am 1987 No 70 s 6

**Meetings**

s 46                      am 1983 No 63 s 15; 1987 No 70 s 7

**Board of school to prepare budget**

s 48                      sub 1983 No 63 s 16

**Application of money by board**

s 48A                    ins 1983 No 63 s 16

**Proper accounts to be kept**

s 48B                    ins 1983 No 63 s 16  
                              am 1987 No 70 s 8

**Board to prepare financial statement and report**

s 48C                    ins 1983 No 63 s 16

**Copies of budget and annual report to be provided**

s 48D                    ins 1983 No 63 s 16

**Committees**

s 51                      sub 1987 No 70 s 9  
                              om 1988 No 65 s 11

## Endnotes

### 4 Amendment history

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#### **Disclosure of interests**

s 52 om 1987 No 70 s 9

#### **First appointment of chief education officer**

s 53 om 1983 No 63 s 17

#### **Rights of chief education officer**

s 54 am 1987 No 70 s 10; 1989 No 38 sch 1

#### **Protection of persons**

s 55 sub 1987 No 70 s 11

#### **Regulations**

s 57 am 1989 No 38 sch 1  
sub 2001 No 44 amdt 1.3883



## 5 Earlier replications

Some earlier replications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised replication has been published in electronic pdf format on the ACT legislation register. A selection of authorised replications have also been published in printed format. These replications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised replication are identical.

Replication No	Amendments to	Replication date
1	Act 1993 No 1	30 April 1993
2	Act 1996 No 26	30 November 1996
3	Act 1997 No 41	31 January 1998
4	Act 2001 No 44	18 April 2002

Authorised when accessed at [www.legislation.act.gov.au](http://www.legislation.act.gov.au) or in authorised printed form

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