

2001

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Education)

Education Bill 2001

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2001

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Education)

Education Bill 2001

A Bill for

An Act relating to the education of children in the ACT, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1

2 **Chapter 1 General**

3 **Part 1.1 Preliminary**

4

5 **1 Name of Act**

6 This Act is the *Education Act 2001*.

7 **2 Commencement**

8 This Act commences on a day fixed by the Minister by notice in the
9 Gazette.

10 *Note 1* The provisions of an Act providing for its name and commencement
11 automatically commence on the notification day (see *Legislation Act*
12 2001, s 75).

13 *Note 2* A single day or time may be fixed, or different days or times may be
14 fixed, for the commencement of different provisions (see *Legislation*
15 *Act 2001*, s 77 (1)).

16 *Note 3* If a provision has not commenced within 6 months beginning on the
17 notification day, it automatically commences on the first day after that
18 period (see *Legislation Act 2001*, s 79).

19 **3 Dictionary**

20 The dictionary at the end of this Act is part of this Act.

21 *Note 1* The dictionary at the end of this Act defines certain words and
22 expressions used in this Act, and includes references (*signpost*
23 *definitions*) to other words and expressions defined elsewhere in this
24 Act.

25 For example, the signpost definition ‘*carer*—see section 5 (Meaning of
26 *carer*)’ means that the expression ‘carer’ is defined in that section.

27 *Note 2* A definition in the dictionary applies to the entire Act unless the
28 definition, or another provision of the Act, provides otherwise or the
29 contrary intention otherwise appears (see *Interpretation Act 1967*, s 11F
30 and s 11G).

1 **4 Notes**

2 A note included in this Act is explanatory and is not part of this Act.

3 *Note* See *Interpretation Act 1967*, s 12 (1), (4) and (5) for the legal status of
4 notes.

5 **5 Meaning of *parent* and *carer***

6 (1) In this Act, a *parent* includes a carer.

7 (2) In this Act, a *parent* is a person having parental responsibility for
8 the child under the *Children and Young People Act 1999*.

9 (3) In this Act, a *carer* is a person who is a carer under the *Children and*
10 *Young People Act 1999*, section 5.

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Part 1.2 General principles and objects

4

6 General principles of Act

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6
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Everyone involved in the administration of this Act, or of education for children of school age in the ACT, is to apply as far as practicable the following general principles:

8

(a) every child has a right to receive an education;

9

10

(b) school education provides a foundation for a democratic society;

11

(c) school education should—

12

13

(i) aim to develop every child's potential and maximise their educational achievements; and

14

15

(ii) promote student enthusiasm for lifelong learning and their optimism for the future; and

16

17

18

(iii) encourage parents to participate in the education of their children, and recognise their right to choose a suitable educational environment; and

19

20

(iv) recognise the social, religious, physical, intellectual and emotional needs of all students;

21

22

(d) innovation, diversity and opportunity within and among schools should be encouraged;

23

24

(e) effective quality assurance mechanisms should be applied to school education;

25

26

(f) government funding is directed to children through their schools.

27

28

(g) recognise the partnership between the home, community and educational providers.

1 **7 Principal objects of Act**

2 The principal objects of this Act are—

- 3 (a) to state the responsibilities of parents and the government in
4 relation to school education and the principles and values on
5 which government and non-government school education is
6 based; and
- 7 (b) to promote compulsory schooling and state the circumstances
8 in which school attendance is not required, including providing
9 for suspension and exclusion from school; and
- 10 (c) to provide for the operation and governance of government
11 schools; and
- 12 (d) to provide for the registration of non-government schools and
13 home-schooling.

1

2 **Chapter 2 School enrolment and**
3 **attendance**

3

4

5

6 **8 Meaning of *compulsory school age***

7 For this Act, a child is of *compulsory school age* if the child is at
8 least 6 years old and under 15 years old.

9 **9 Compulsory enrolment**

10 (1) This section applies to the parents of a child who is of compulsory
11 school age and lives in the ACT.

12 (2) Not later than 7 days after the day the child turns 6 years old, or
13 begins to live in the ACT, the parents must enrol the child at a
14 school or register the child for home-schooling.

15 Maximum penalty: 5 penalty units.

16 (3) Subsection (2) does not apply if—

17 (a) the child lives in the ACT but is enrolled in a school under the
18 law of a State; or

19 (b) an exemption certificate is in force for the child.

20 **10 Compulsory attendance**

21 (1) This section applies to the parents of a child who is of compulsory
22 school age, lives in the ACT and enrolled at a school.

23 (2) The parents must not, without reasonable excuse, fail to ensure that
24 the child attends—

25 (a) the school on every day, and during the times on every day,
26 when the school is open for attendance; and

- (b) every activity of the school (including attendances at an approved educational course) that the school requires the child to attend.

Maximum penalty: 5 penalty units.

11 Information about school-age children

- (1) This section applies if the chief executive believes on reasonable grounds that—

(a) a child of compulsory school age lives in the ACT; and

(b) the child is not enrolled at a school or registered for home-schooling.

- (2) The chief executive may give written notice to a parent of the child requiring the parent to give the chief executive the details about the child stated in the notice within 7 days after receiving the notice.

- (3) If the chief executive gives a notice under this section to the parent, the parent must comply with the notice.

Maximum penalty: 50 penalty units.

Note It is an offence under s 131 (False or misleading statements) to make a false or misleading statement to the chief executive.

12 Employment of children under school-leaving age

A person must not, without reasonable excuse, employ a child under school-leaving age, on a day and at a time, when the parents of the child—

(a) are required under this Act to ensure that the child is attending a school, school activity or approved educational course; or

(b) if the child does not live in the ACT or is enrolled at a school under the law of a State—would be required under this Act to ensure that the child is attending a school, school activity or approved educational course if the child were living in the ACT or were not enrolled at a school under the law of a State.

Section 13

1 Maximum penalty: 50 penalty units, imprisonment for 6 months or
2 both.

3 **13 Exemption certificates**

4 The chief executive may issue a certificate exempting a child from
5 school, if satisfied that—

6 (a) having regard to any educational, vocational training or
7 employment opportunity offered to the child before the child is
8 of school-leaving age, it is necessary or desirable to exempt the
9 child from school; or

10 (b) it is otherwise in the child's best interests, having regard to the
11 care, health, development or education of the child, to exempt
12 the child from school.

13 **14 Duration of exemption certificates**

14 An exemption certificate may be issued for a child until—

15 (a) the child reaches school-leaving age; or

16 (b) the ground on which the certificate was issued ceases to apply.

17 **15 Revocation of exemption certificates**

18 The chief executive may revoke an exemption certificate issued for
19 a child if—

20 (a) the certificate was issued in error; or

21 (b) the ground on which the certificate was issued ceases to apply.

1

2 **Chapter 3 Government schools**

3 **Part 3.1 General**

4

5 **16 Principles on which ch 3 based**

6 The following are the principles on which this part is based:

- 7 (a) the ACT government school system is based on the principles
8 of equity, universality and nondiscrimination;
- 9 (b) government schools are free and open to everyone;
- 10 (c) government schools offer a broad and balanced secular
11 education to all children from preschool to year 12;
- 12 (d) the government school system is committed to—
- 13 (i) maximising student educational achievements and
14 opportunities; and
- 15 (ii) developing emotional, physical and intellectual wellbeing
16 of all students; and
- 17 (iii) parent and carer participation and responsiveness to
18 community needs; and
- 19 (iv) innovation, diversity and choice; and
- 20 (v) preparing students to be effective local and global
21 citizens.

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Part 3.2 Establishment and operation of government schools

5

17 Establishing government schools etc

6

7

- (1) The Minister may establish government schools and preschools
(*government schools*).

8

9

- (2) The Minister may decide the kinds of government schools to be
established and the educational level or levels for the schools.

10

11

- (3) The Minister may establish school related educational institutions
and services (*school related institutions*).

12

Example of school related institution

13

Hindmarsh Education Centre

14

15

- (4) The Minister may name, and change the name of, a government
school or school related institution.

16

18 Operation of government schools

17

18

- (1) The chief executive is responsible to the Minister for the operation
of government schools.

19

- (2) The principal of a government school is responsible for—

20

- (a) educational outcomes for students at the school; and

21

- (b) supporting the school board in the carrying out of its functions;

22

and

23

- (c) contributing to the development and implementation of
educational policies and strategies.

24

25

19 Educational instruction to be free

26

- (1) Instruction in government schools is free of charge.

- 1 (2) This section is subject to section 20 and to the *Education Services*
2 *for Overseas Students (Registration and Regulation of Providers)*
3 *Act 1994.*

4 **20 Voluntary financial contributions**

- 5 (1) The principal of a government school may ask the parents of a child
6 enrolled at the school, or anyone else, to make a financial
7 contribution to the school.
- 8 (2) However, the following principles apply in relation to financial
9 contributions:
- 10 (a) each contribution is to be voluntary;
- 11 (b) a child at the school is not to be refused benefits or services
12 because the child's parents do not make a contribution;
- 13 (c) a child is not to be approached or harassed for contributions;
- 14 (d) any record of contributions is confidential.

15 **21 Secular instruction**

- 16 (1) Education in government schools is to be non-sectarian, secular
17 instruction.
- 18 (2) In this section:
- 19 *secular* instruction includes general religious education as distinct
20 from dogmatic or polemic theology.

21 **22 Curriculum**

- 22 (1) The chief executive must decide the curriculum requirements for
23 children attending government schools.
- 24 (2) For subsection (1), the requirements include the framework of the
25 curriculum, the principles on which the curriculum is based, and its
26 development.

Section 23

1 **23 Religious education**

2 (1) The chief executive must ensure that every government school
3 allows reasonable time for the religious education of children of any
4 religion.

5 (2) Religious education must be authorised by the religious body to
6 which the person providing the education belongs.

7 (3) Children attending a religious education class must be separated
8 from other children at a government school while the class is held.

9 **24 Objection to religious education**

10 A child at a government school must not be required to receive any
11 general religious education if the parent of the child objects.

12 **25 Approved educational courses for children at**
13 **government schools**

14 (1) The chief executive may approve educational courses that may be
15 provided to a child enrolled at a government school otherwise than
16 at the school.

17 (2) An approval may be subject to conditions.

18 (3) However, the chief executive may approve an educational course
19 only if satisfied that—

20 (a) the standard of the course is appropriate; and

21 (b) there are adequate facilities for conducting the course; and

22 (c) the premises where the course is to be conducted comply with
23 any relevant Territory laws about health and safety standards.

24 **26 Discipline not to include corporal punishment**

25 The chief executive must ensure that any disciplinary policy
26 implemented at a government school does not allow corporal
27 punishment.

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Part 3.3 Attendance at government schools

5

6

27 Register of enrolments and attendances for government schools

7

8

9

The principal of a government school, or the person giving an approved educational course (government), must keep a register of enrolments and attendances.

10

Maximum penalty: 10 penalty units.

11

12

28 Keeping records of enrolment and attendances for government schools

13

14

15

The principal of a government school, or the person giving an approved educational course (government), must enter in the register of enrolments and attendances—

16

17

(a) the name of each child who is enrolled at the school or course;
and

18

19

20

(b) a record of the attendance or nonattendance of the child at the school or course on every day when the school or course is open for attendance.

21

Maximum penalty: 10 penalty units.

22

23

29 Inspection of register of enrolment and attendances for government schools

24

25

26

27

28

(1) The principal of a government school, or the person giving an approved educational course (government), must make the register of enrolments and attendances available for inspection by an authorised person (government) if the authorised person asks for the register to be made available.

29

Maximum penalty: 10 penalty units.

Section 30

- 1 (2) If the chief executive or an authorised person (government) asks the
2 principal of a government school, or the person giving an approved
3 educational course (government), to give the chief executive or
4 authorised person stated information about enrolments or
5 attendances of children at the school or course during a stated period
6 or at a stated time, the principal or person must not, without
7 reasonable excuse, fail to give the information in accordance with
8 the request.

9 Maximum penalty: 50 penalty units.

- 10 (3) An authorised person (government) may make copies of the register
11 of enrolments and attendances or any part of the register.

- 12 (4) The principal of a government school, or the person giving an
13 approved educational course (government), must take reasonable
14 steps to assist an authorised person (government) in exercising
15 functions under this section.

16 **30 Procedures to encourage school attendance**

- 17 (1) The principal of a government school must set up procedures—
18 (a) to encourage children to attend school regularly; and
19 (b) to help parents to encourage their children to attend school
20 regularly.
- 21 (2) The procedures must include referral to entities that give assistance
22 to parents and children to encourage children to attend school
23 regularly when the procedures mentioned in subsection (1) are not
24 successful.
- 25 (3) If a child who is enrolled at a government school has not been
26 attending school regularly, the principal of the school may, by
27 written notice, require the parents of the child, together with the
28 child, to meet with an authorised person at a stated place and time.

- 1 **31 Suspension, exclusion or transfer of child by chief**
2 **executive**
- 3 (1) This section applies if—
- 4 (a) a child attending a government school—
- 5 (i) is persistently and wilfully noncompliant; or
- 6 (ii) acts in a way that threatens the good order of the school
- 7 or the safety or well-being of another child at the school
- 8 or a member of staff of the school; or
- 9 (iii) displays behaviour that is disruptive to the child's
- 10 learning or that of other children; or
- 11 (iv) threatens to be violent or is violent to someone else at the
- 12 school; and
- 13 (b) the principal of the school is satisfied that action should be
- 14 taken under this section.
- 15 (2) The principal may recommend to the chief executive that the chief
- 16 executive—
- 17 (a) suspend the child from the school for a stated period of longer
- 18 than 5 days; or
- 19 (b) exclude the child from the school or from all government
- 20 schools; or
- 21 (c) transfer the child to another government school.
- 22 (3) After considering the principal's recommendation, the chief
- 23 executive may—
- 24 (a) give effect to the recommendation; or
- 25 (b) take any other action mentioned in subsection (2) that the chief
- 26 executive considers appropriate; or
- 27 (c) suspend the child for 5 days or less.
- 28 (4) The chief executive may suspend or exclude a child only if—

Section 32

- 1 (a) the child's parents are given an opportunity to be consulted,
2 and told in writing, about the action that is to be taken in
3 relation to their child; and
- 4 (b) the child is given a reasonable opportunity to continue the
5 child's education during the suspension or exclusion.

6 **32 Suspension of child by principal of government school**

- 7 (1) This section applies if—
- 8 (a) section 31 (1) (a) (Suspension, exclusion or transfer of child by
9 chief executive) applies to a child attending a government
10 school; but
- 11 (b) the principal of the school is of the opinion that the child
12 should be suspended from the school for not longer than 5
13 days.
- 14 (2) The principal may suspend the child for not longer than 5 days.
- 15 (3) The principal may take action under subsection (2) only if satisfied
16 that reasonable efforts have been made to change the child's
17 behaviour and that the efforts have proved ineffective.
- 18 (4) The principal may suspend a child only if—
- 19 (a) the child's parents have been given an opportunity to be
20 consulted, and told in writing, about the action that is to be
21 taken in relation to their child; and
- 22 (b) the child and the child's parents have been given a reasonable
23 opportunity to attend counselling, undertake special education
24 programs or receive other appropriate assistance; and
- 25 (c) the child is given a reasonable opportunity to continue the
26 child's education during the suspension or exclusion.

Part 3.4 School boards of government schools

Division 3.4.1 Interpretation

33 Definitions for pt 3.4

In this part:

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

money, of a school, means money allocated to the school by the chief executive or otherwise received by the school.

Examples of money otherwise received

Voluntary financial contributions, other donations and sponsorships

parents and citizens association, of a school, means the entity declared under section 36 (Declaration of parents and citizens associations) to be the parents and citizens association of the school.

prescribed period, for a term of office of a member of a school board (other than the principal), means the period—

(a) beginning on whichever of the following is later:

(i) 1 March in the year of the member's election or appointment;

(ii) the date of the member's election or appointment; and

(b) ending at the end of the February at least 12 months, and not more than 24 months, after the beginning of the period.

school means a government school, but does not include a preschool.

1 *small school* means a school (other than a school related institution)
2 where less than 4 teachers are employed.

3 *student* means a student who attends classes at a school for at least
4 12 hours per week.

5 **Division 3.4.2 Establishment and membership**

6 **34 Establishment of school boards**

7 A school board is established for each government school.

8 *Note* Section 127 deals with opportunities for parents of children at
9 preschools to participate in the conduct of the preschool.

10 **35 Functions of school boards etc**

- 11 (1) The functions of the school board of a government school are—
- 12 (a) to establish strategic direction and priorities for the school; and
- 13 (b) to monitor school performance and to report on it to the chief
14 executive, parents and staff; and
- 15 (c) to develop, maintain and review curriculum for the school; and
- 16 (d) to establish budgetary policies for the school and approve the
17 school budget; and
- 18 (e) to establish policies for the efficient and effective use of school
19 assets and the management of risk; and
- 20 (f) to develop relationships between the school and the community
21 and between the school and community organisations; and
- 22 (g) to make recommendations to the chief executive on issues
23 affecting the school; and
- 24 (h) to exercise any other function given to the board under this Act
25 or any other Territory law.

-
- 1 (2) The chief executive may give written directions to the school board
2 about the exercise of its functions, either generally or in relation to a
3 particular issue.
- 4 (3) The school board must give effect to the chief executive's
5 directions.
- 6 (4) The chief executive is not required—
- 7 (a) to accept, or act in accordance with, a recommendation of the
8 school board; or
- 9 (b) to carry out a policy decided by the school board.

10 **36 Declaration of parents and citizens associations**

11 The Minister may, in writing, declare an entity to be the parents and
12 citizens association of a government school.

13 **37 Constitution of school boards generally**

- 14 (1) This section applies to a school board of a government school other
15 than—
- 16 (a) a small school or a school related institution; or
- 17 (b) a school to which section 39 (Constitution of school boards of
18 school related institutions and other schools in special
19 circumstances) applies.
- 20 (2) The school board of a government school consists of—
- 21 (a) the principal of the school; and
- 22 (b) 1 member (the *appointed member*) appointed by the chief
23 executive as the appointed member; and
- 24 (c) 2 members (the *staff members*) elected by staff of the school
25 and appointed by the chief executive; and
- 26 (d) 3 members (the *parents and citizens members*) elected by the
27 parents and citizens association of the school and appointed by
28 the chief executive; and

- 1 (e) the members (if any) (the *board appointed members*)
2 appointed by the board under subsection (6); and
- 3 (f) for a school prescribed under the regulations—2 members (the
4 *student members*) elected by the students at the school and
5 appointed by the chief executive.
- 6 (3) A person is eligible to be elected or appointed as a staff member
7 only if the person is employed as a member of the staff of the
8 school.
- 9 (4) A person is eligible to be elected or appointed a student member
10 only if the person is a student at the school.
- 11 (5) The appointed member, staff members, parent and citizens members
12 and student members are appointed for the prescribed period.
- 13 (6) The school board may appoint a person to be a member of the board
14 for a term (not longer than 12 months) decided by the school board.
- 15 (7) The school board must not make an appointment under subsection
16 (6) if there would be more than 4 board appointed members at the
17 same time.

18 **38 Constitution of school boards of small schools**

- 19 (1) This section applies to a school board of a small school other than a
20 school to which section 39 (Constitution of school boards of school
21 related institutions and other schools in special circumstances)
22 applies.
- 23 (2) The school board of a small school consists of—
- 24 (a) the principal of the school; and
- 25 (b) 1 member (the *appointed member*) appointed by the chief
26 executive as the appointed member; and
- 27 (c) 1 member (the *staff member*) appointed by the chief executive
28 as the staff member; and

- 1 (d) 2 members (the *parents and citizens members*) elected by the
2 parents and citizens association of the school and appointed by
3 the chief executive; and
- 4 (e) the members (the *board appointed member*) (if any) appointed
5 by the board under subsection (6).
- 6 (3) A person is eligible to be appointed as the staff member only if the
7 person is employed as a member of the staff of the school.
- 8 (4) The staff member is to be appointed in a way prescribed under the
9 regulations.
- 10 (5) The appointed member, staff member and parent and citizen
11 members are appointed for the prescribed period.
- 12 (6) The school board may appoint 1 or more people to be members of
13 the board for a term (not longer than 12 months) decided by the
14 school board.
- 15 (7) The school board must not make an appointment under subsection
16 (6) if there would be more than 2 board appointed members at the
17 same time.

18 **39 Constitution of school boards of school related**
19 **institutions and other schools in special circumstances**

- 20 (1) This section applies to a school—
21 (a) that is a school related institution; or
22 (b) a school declared, in writing, by the chief executive to be a
23 school to which special circumstances apply.
- 24 (2) The chief executive may, in writing, determine—
25 (a) the constitution of the school board of the school; and
26 (b) the members who are required to be present at a meeting of the
27 board; and
28 (c) the members who may not vote at a meeting of the board.

- 1 (3) The chief executive may only make a determination under
2 subsection (2) with the Minister's written approval.
- 3 (4) In deciding whether or not to give the approval, the Minister must
4 have regard to—
- 5 (a) the need for the principal of the school to be a member of the
6 board; and
- 7 (b) the need for the chief executive to be represented on the board;
8 **and**
- 9 (c) whether staff of the school and students at the school have
10 been consulted about the constitution of the board; and
- 11 (d) any comments made by the staff and students at the school
12 about the constitution of the board; and
- 13 (e) the administrative needs, educational or related objectives, and
14 any special characteristics of the school.
- 15 (5) The chief executive may, in writing, appoint a person in accordance
16 with the determination to be a member of the board.
- 17 (6) A member of the board is appointed for the term stated in the
18 member's appointment.
- 19 (7) A declaration under subsection (2) is a disallowable instrument.

20 *Note* A disallowable instrument must be notified, and presented to the
21 Legislative Assembly, under the *Legislation Act 2001*.

22 **40 Ending of appointment of members of school board**

- 23 (1) The chief executive must end the appointment of a member of the
24 school board of a government school if the member ceases to be
25 eligible to be appointed or elected to the position.
- 26 (2) The chief executive must end the appointment of a member of the
27 school board of a government school, other than the principal of the
28 school, if—

- 1 (a) the member is absent from 3 consecutive meetings of the
2 board, without reasonable excuse or leave given by the board;
3 or
4 (b) contravenes section 44 (Disclosure of interests by members of
5 school boards), without reasonable excuse.
6 (3) The chief executive may end the appointment of a member of the
7 school board of a government school, other than the principal at the
8 school, for misbehaviour or physical or mental incapacity.

9 **41 Chairperson and deputy chairperson of school boards**

- 10 (1) The members of the school board of a government school must,
11 whenever necessary, elect—
12 (a) a member to be chairperson; and
13 (b) another member to be deputy chairperson.
14 (2) The school board must tell the chief executive of the election of a
15 member as chairperson or deputy chairperson.
16 (3) The members of the school board must not appoint the principal of
17 the school or a member of staff of the school to be chairperson of
18 the board.

19 **Division 3.4.3 Proceedings of school boards**

20 **42 Time and place of meetings of school boards**

- 21 (1) The school board of a government school is to meet at the times and
22 places it decides.
23 (2) However, the school board must meet at least 4 times a year.
24 (3) The chairperson—
25 (a) may at any time call a meeting of the school board; and
26 (b) must call a meeting if asked by the Minister, the chief
27 executive or 3 members of the board

- 1 (4) If the chairperson is not available to call a meeting for any reason,
2 the principal of the school may call a meeting of the school board.

3 **43 Procedures governing proceedings of school boards**

- 4 (1) The chairperson of the school board of a government school
5 presides at all meetings of the board at which the chairperson is
6 present.
- 7 (2) If the chairperson is absent, the deputy chairperson presides.
- 8 (3) If the chairperson and deputy chairperson are both absent, the
9 member chosen by the members present presides.
- 10 (4) Business may be carried out at a meeting of the school board only if
11 3 or more members are present and—
- 12 (a) for the school board of a school other than a school to which
13 section 39 (Constitution of school boards of school related
14 institutions and other schools in special circumstances)
15 applies—at least 1 of the members present is a staff member
16 and at least 1 of the members present is a parents and citizens
17 association member; or
- 18 (b) for the school board of a school to which section 39 applies—
19 the members (if any) who are required, under the determination
20 under section 39 (2) applying to the school, to be present at a
21 meeting of the school board are present.
- 22 (5) At a meeting of the school board each member (other than a non-
23 voting member) has a vote on each question to be decided.
- 24 (6) A question is to be decided by a majority of the votes of the
25 members present and voting but, if the votes are equal, the member
26 presiding has a casting vote.
- 27 (7) The school board may hold meetings, or allow members to take part
28 in meetings, by telephone, closed-circuit television or another form
29 of communication.

1 (8) A member who takes part in a meeting conducted under
2 subsection (7) is taken to be present at the meeting.

3 (9) A resolution of the school board is a valid resolution, even though it
4 is not passed at a meeting of the board, if—

5 (a) all members (other than the non-voting members) agree, in
6 writing, to the proposed resolution; and

7 (b) notice of the resolution is given under procedures decided by
8 the school board.

9 (10) The school board must keep minutes of its meetings.

10 (11) The school board may conduct its proceedings (including its
11 meetings) as it otherwise considers appropriate.

12 (12) In this section:

13 *non-voting member* means—

14 (a) for the school board of a school other than a school to which
15 section 39 applies—a board appointed member; or

16 (b) for the school board of a school to which section 39 applies—a
17 member who, under the determination under section 39 (2)
18 applying to the school, may not vote at a meeting of the school
19 board.

20 **44 Disclosure of interests by members of school boards**

21 (1) This section applies to a member of a school board if—

22 (a) the member has a direct or indirect financial interest in an issue
23 being considered, or about to be considered, by the board; and

24 (b) the interest could conflict with the proper exercise of the
25 member's functions in relation to the board's consideration of
26 the issue.

27 (2) As soon as practicable after the relevant facts come to the member's
28 knowledge, the member must disclose the nature of the interest to a
29 meeting of the school board.

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- 1 (3) The disclosure must be recorded in the school board's minutes and,
2 unless the board otherwise decides, the member must not—
3 (a) be present when the board considers the issue; or
4 (b) take part in a decision of the board on the issue.
5 (4) Any other member who also has a direct or indirect financial interest
6 in the issue must not—
7 (a) be present when the school board is considering its decision
8 under subsection (3); or
9 (b) take part in making the decision.
10 (5) Within 14 days after the end of each financial year, the chairperson
11 of the school board must give the chief executive a statement of any
12 disclosure of interest made under this section during the financial
13 year.

14 **Division 3.4.4 Financial matters**

15 **45 School boards to approve budgets**

- 16 (1) The school board of a government school must approve a budget for
17 each year.
18 (2) The school board must approve the budget before the date decided
19 by the chief executive.
20 (3) The budget may only be approved by the school board if it is in the
21 form, and based on the accounting or other policies or practices,
22 (if any) required by the chief executive.
23 (4) The chief executive may ask the school board to approve a budget
24 for a part of a year.
25 (5) The school board must comply with the request.
26 (6) If the school board approves the budget, money of the school may
27 be spent in accordance with the budget.

1 **46 Application of money of school**

2 The school board of a government school may approve the spending
3 of money of the school only in payment or discharge of the costs of,
4 or liabilities incurred by, the school.

5 **47 School boards to approve financial statement and report**

6 (1) As soon as practicable after the end of each half-year (but not later
7 than the date decided by the chief executive), the school board of a
8 government school must approve a financial statement for the half-
9 year, in a form approved by the chief executive or as the chief
10 executive directs.

11 (2) As soon as practicable after the end of each year (but not later than
12 the date decided by the chief executive), the school board of a
13 government school must approve an annual report on the board's
14 operations during the year.

15 (3) The annual report must include the financial statements approved
16 under subsection (1) for each half-year the year.

17 (4) The school board must give a copy of each report approved under
18 this section to the chief executive.

19 **48 School boards to make available summaries of budget**
20 **and annual report**

21 (1) Not later than 14 days after approving the budget for a year, the
22 school board of a government school must make a summary of the
23 budget available to parents of students at the school and to the staff
24 and students of the school.

25 (2) Not later than 14 days after approving the annual report for a year,
26 the school board of a government school must make a summary of
27 the report available to parents of students at the school and to the
28 staff and students of the school.

1

2 **Part 3.5** **Government School Education**
3 **Council**

4 **Division 3.5.1** **Establishment and membership**

5 **49** **Establishment of council**

6 The Government School Education Council is established.

7 **50** **Functions of council**

8 The functions of the council are—

- 9 (a) to advise the Minister on any aspect of the ACT government
10 school system; and
11 (b) when asked by the Minister, to inquire into and give advice to
12 the Minister on any aspect of the ACT government school
13 system; and
14 (c) to exercise any other function given to the council under this
15 Act or any other Territory law.

16 **51** **Membership of council**

17 The council consists of the following members:

- 18 (a) the chief executive;
19 (b) the members (*appointed members*) appointed under section 52.

20 **52** **Appointed members of council**

21 The Minister must appoint the following members of the council:

- 22 (a) a chairperson;
23 (b) a deputy chairperson;
24 (c) 3 people who, in the Minister's opinion, have experience in 1
25 or more of the areas of business and commerce, public policy,

early childhood care, education and the special needs of young people (the *educational needs members*);

- (d) 7 people who, in the Minister's opinion, represent industry, commerce, school boards, and parents of children and teachers at government schools (the *organisations members*).

Note 1 A person may be reappointed to a position if the person is eligible for appointment to the position (see *Interpretation Act 1967*, s 28 (3) (c) and dict, def of *appoint*).

Note 2 The power to appoint a person to a position includes power to appoint a person to act in the position (see *Interpretation Act 1967*, s 28 (4)-(6) and s 28A).

53 Term of appointment to council

- (1) An appointed member is to be appointed for a term not longer than 3 years.
- (2) The instrument appointing, or evidencing the appointment of, an appointed member—
- (a) must state—
- (i) the term for which the member is appointed; and
- (ii) whether the person is appointed as chairperson, deputy chairperson, an educational needs member or an organisations member; and
- (b) for an educational needs member or an organisations member—may state the group (if any) represented by the member.

54 Ending of appointment to council

- (1) The Minister must end the appointment of an educational needs member or organisations member if satisfied that the member is no longer a representative of the group (if any) represented by the member.

1 (2) The Minister may end the appointment of a member of the
2 council—

3 (a) for misbehaviour; or

4 (b) for contravening section 58 (Disclosure of interests by
5 members of council).

6 **55 Conditions of appointment generally of appointed**
7 **members**

8 An appointed member holds the position on the conditions not
9 provided by this Act or another Territory law that are decided by the
10 Minister.

11 **Division 3.5.2 Proceedings of council**

12 **56 Time and place of meetings of council**

13 (1) The council is to meet at the times and places it decides.

14 (2) However, the council must meet at least 4 times a year.

15 (3) The chairperson—

16 (a) may at any time call a meeting of the council; and

17 (b) must call a meeting if asked by the Minister, the chief
18 executive or at least 7 members.

19 (4) If the chairperson is not available to call a meeting for any reason,
20 the deputy chairperson may call a meeting of the council.

21 **57 Procedures governing proceedings of council**

22 (1) The chairperson of the council presides at all meetings of the
23 council at which the chairperson is present.

24 (2) If the chairperson is absent, the deputy chairperson presides.

25 (3) If the chairperson and deputy chairperson are both absent, the
26 member chosen by the members present presides.

-
- 1 (4) Business may be carried out at a meeting of the council only if 7
2 members are present.
- 3 (5) At a meeting of the council each appointed member has a vote on
4 each question to be decided.
- 5 (6) A question is to be decided by a majority of the votes of the
6 members present and voting but, if the votes are equal, the member
7 presiding has a casting vote.
- 8 (7) The council may hold meetings, or allow members to take part in
9 meetings, by telephone, closed-circuit television or another form of
10 communication.
- 11 (8) A member who takes part in a meeting conducted under
12 subsection (7) is taken to be present at the meeting.
- 13 (9) A resolution of the council is a valid resolution, even though it was
14 not passed at a meeting of the council, if—
- 15 (a) all appointed members agree, in writing, to the proposed
16 resolution; and
- 17 (b) notice of the resolution is given under procedures decided by
18 the council.
- 19 (10) The council must keep minutes of its meetings.
- 20 (11) The council may conduct its proceedings (including its meetings) as
21 it otherwise considers appropriate.

22 **58 Disclosure of interests by members of council**

- 23 (1) This section applies to a member of the council if—
- 24 (a) the member has a direct or indirect financial interest in an issue
25 being considered, or about to be considered, by the council;
26 **and**
- 27 (b) the interest could conflict with the proper exercise of the
28 member's functions in relation to the council's consideration of
29 the issue.

- 1 (2) As soon as practicable after the relevant facts come to the member's
2 knowledge, the member must disclose the nature of the interest to a
3 meeting of the council.
- 4 (3) The disclosure must be recorded in the council's minutes and, unless
5 the council otherwise decides, the member must not—
6 (a) be present when the council considers the issue; or
7 (b) take part in a decision of the council on the issue.
- 8 (4) Any other member who also has a direct or indirect financial interest
9 in the issue must not—
10 (a) be present when the council is considering its decision under
11 subsection (3); or
12 (b) take part in making the decision.
- 13 (5) Within 14 days after the end of each financial year, the chairperson
14 of the council must give the Minister a statement of any disclosure
15 of interest made under this section during the financial year.

1

2 **Part 3.6 Other provisions**

3 **Division 3.6.1 Authorised persons (government)**

4 **59 Appointment of authorised persons (government)**

5 (1) The chief executive may, in writing, appoint a person to be an
6 authorised person (government) for this Act or a provision of this
7 Act, other than chapter 4 (Non-government schools).

8 (2) The regulations may prescribe a person to be an authorised person
9 (government) for this Act or a provision of this Act, other than
10 chapter 4.

11 (3) A person may be appointed as an authorised person (government)
12 under subsection (1) only if—

13 (a) the person is an Australian citizen or a permanent resident of
14 Australia; and

15 (b) the chief executive has certified in writing that, after
16 appropriate inquiry, the chief executive is satisfied that the
17 person is a suitable person to be appointed, having regard in
18 particular to—

19 (i) whether the person has any criminal convictions; and

20 (ii) the person's employment record; and

21 (c) the person has satisfactorily completed adequate training to
22 exercise the powers of an authorised person (government)
23 proposed to be given to the person.

24 **60 Identity cards for authorised persons (government)**

25 (1) The chief executive must issue an authorised person (government)
26 with an identity card that states the person is an authorised person
27 (government) for this Act, or stated provisions of this Act, and
28 shows—

- 1 (a) a recent photograph of the person; and
2 (b) the name of the person; and
3 (c) the date of issue of the card; and
4 (d) a date of expiry for the card; and
5 (e) anything else prescribed under the regulations.
6 (2) A person who ceases to be an authorised person (government) must
7 return his or her identity card to the chief executive as soon as
8 practicable, but within 21 days after ceasing to be an authorised
9 person.
10 Maximum penalty (subsection (2)): 1 penalty unit.

Division 3.6.2 Inspection powers for government schools

61 Power not to be exercised before identity card shown etc

- 14 (1) An authorised person (government) may exercise a power under this
15 chapter in relation to a person only if the authorised person first
16 shows the person his or her identity card.
17 (2) An authorised person (government) may not remain in a government
18 school entered under this division if, on request by the principal, the
19 authorised person does not produce his or her identity card.

62 Entry to government schools

- 21 An authorised person (government) may enter a government school
22 at any time.

63 Powers on entry

- 24 An authorised person (government) who enters a government school
25 under section 62 (Entry to government schools) may inspect the
26 school or anything in it (including the register of enrolment and
27 attendances).

1 **Division 3.6.3 Miscellaneous**

2 **64 Protection of members of school boards**

- 3 (1) A person who is, or has been, a member of a school board under this
4 Act is not civilly liable for an act or omission done honestly in the
5 exercise of a function under this Act.
- 6 (2) Any liability that would, apart from subsection (1), attach to a
7 person attaches to the Territory.

1

2 **Chapter 4 Non-government schools**

3 **Part 4.1 General**

4

5 **65 Meaning of *school* in ch 4**

6 In this part:

7 *school* does not include—

8 (a) a government school; or

9 (b) a school declared under the regulations to be a school to which
10 this part does not apply.

11 **66 Principles on which ch 4 based**

12 The following are the principles on which this part is based:

13 (a) the non-government school sector consists of schools from a
14 range of different educational and religious philosophies;

15 (b) the variety of schools in the sector reflects the diversity of the
16 community in the ACT and the preferences of parents for a
17 particular style of education for their children;

18 (c) the non-government schools sector is committed to—

19 (i) developing the spiritual, physical, emotional and
20 intellectual welfare of its students; and

21 (ii) valuing diversity, innovation and opportunity; and

22 (iii) maximising student outcomes; and

23 (iv) promoting the partnership between home and school; and

24 (v) preparing students for their full participation in all
25 aspects of a democratic society.

1 **67 Registrar**

2 The Minister must appoint a Registrar of Non-Government Schools.

3 **68 Functions of registrar**

4 The registrar has the following functions:

- 5 (a) to register non-government schools;
- 6 (b) to keep a register of non-government schools;
- 7 (c) to exercise any other function given to the registrar under this
- 8 Act or any other Territory law.

9 **69 Register of non-government schools**

10 The registrar must keep a register of non-government schools.

11 **70 Approved educational courses for children at non-**
12 **government schools**

- 13 (1) The principal of a non-government school may approve educational
- 14 courses that may be provided to a child enrolled at the school
- 15 otherwise than at the school.
- 16 (2) An approval may be subject to conditions.
- 17 (3) However, the principal may approve an educational course only if
- 18 satisfied that—
- 19 (a) the standard of the course is appropriate; and
- 20 (b) there are adequate facilities for conducting the course; and
- 21 (c) the premises where the course is to be conducted comply with
- 22 any relevant Territory laws about health and safety standards.

Part 4.2 Registration

71 Schools to be registered

- (1) A person must not conduct a school unless it is registered or provisionally registered under this part.

Maximum penalty: 50 penalty units.

- (2) The principal of a school must not enrol a child at the school for education at an education level for which the school is not registered or provisionally registered under this part.

Maximum penalty: 10 penalty units.

72 Application for provisional registration

- (1) This section applies if—

(a) a person has given the registrar written notice of the person's intention to begin conducting a school at stated educational levels; and

(b) the notice is given at least the prescribed period before the first day of the school year or term when it is proposed to begin conducting the school.

- (2) The person may apply in writing to the registrar for provisional registration of the school.

- (3) The application must state where the school is to be located.

- (4) In this section:

prescribed period means—

(a) 2 years; or

(b) if the Minister approves a lesser period for the application—
that period.

1 **73 Provisional registration**

- 2 (1) This section applies if an application is made under section 72
3 (Application for provisional registration) for provisional registration
4 of a school.
- 5 (2) Before deciding whether the school should be provisionally
6 registered, the Minister must appoint a panel to report to the
7 Minister on the application.
- 8 (3) If the Minister is satisfied after considering the panel's report that
9 the school meets the criteria for provisional registration mentioned
10 in subsection (6), the Minister must direct the registrar to
11 provisionally register the school.
- 12 (4) If the Minister directs the registrar to provisionally register the
13 school, the registrar must provisionally register the school by—
- 14 (a) entering particulars of the school required under the regulations
15 in the register of non-government schools; and
- 16 (b) giving the proprietor of the school a certificate of provisional
17 registration for the school.
- 18 (5) If the Minister is not satisfied after considering the panel's report
19 that the school meets the criteria for provisional registration
20 mentioned in subsection (6), the Minister must direct the registrar to
21 refuse to provisionally register the school.
- 22 (6) The criteria for provisional registration of a school are that—
- 23 (a) the school will have adequate facilities and equipment for the
24 safety, health and welfare of its students; and
- 25 (b) the nature and content of the education to be offered at the
26 school will be satisfactory for the educational levels for which
27 provisional registration of the school is sought; and
- 28 (c) the teaching staff will be efficient and effective; and
- 29 (d) the school will be conducted in a satisfactory way; and

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- 1 (e) the disciplinary policy of the school will not allow corporal
2 punishment.

3 **74 Application for registration**

- 4 (1) This section applies to a school that has been provisionally
5 registered for at least 8 months.
6 (2) The proprietor of the school may apply in writing for registration of
7 the school at the educational levels for which the school is
8 provisionally registered.

9 **75 Registration**

- 10 (1) This section applies if an application is made under section 74
11 (Application for registration) for registration of a school.
12 (2) Before deciding whether the school should be registered, the
13 Minister must appoint a panel to report to the Minister on the
14 application.
15 (3) If the Minister is satisfied after considering the panel's report that
16 the school meets the criteria for registration mentioned in subsection
17 (6), the Minister must direct the registrar to register the school.
18 (4) If the Minister directs the registrar to register the school, the
19 registrar must register the school by—
20 (a) entering particulars of the school required under the regulations
21 in the register of non-government schools; and
22 (b) giving the proprietor of the school a certificate of registration
23 for the school.
24 (5) If the Minister is not satisfied after considering the panel's report
25 that the school meets the criteria for registration mentioned in
26 subsection (6), the Minister must direct the registrar to refuse to
27 register the school.
28 (6) The criteria for registration of a school are that—

- 1 (a) the school has adequate facilities and equipment for the safety,
2 health and welfare of its students; and
- 3 (b) the nature and content of the education offered at the school is
4 satisfactory for the educational levels of the school for which
5 registration of the school is sought; and
- 6 (c) the teaching staff are efficient and effective; and
- 7 (d) the school is conducted in a satisfactory way; and
- 8 (e) the disciplinary policy of the school does not allow corporal
9 punishment.

10 **76 Application for registration at additional educational**
11 **levels**

- 12 (1) This section applies if—
- 13 (a) the proprietor of a registered non-government school has given
14 the registrar written notice of the proprietor's intention to begin
15 conducting the school at a stated additional educational level;
16 and
- 17 (b) the notice is given at least the prescribed period before the first
18 day of the school year or term when it is proposed to begin
19 conducting the school at the additional educational level.
- 20 (2) The proprietor of the school may apply in writing to the registrar for
21 registration of the school at the additional educational level.
- 22 (3) In this section:
- 23 *prescribed period* means—
- 24 (a) 2 years; or
- 25 (b) if the Minister approves a lesser period for the application—
26 that period.

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1 **77 Registration at additional educational levels**

- 2 (1) This section applies if an application made under section 76
3 (Application for registration at additional educational levels) for
4 registration of a school at an additional educational level.
- 5 (2) Before deciding whether a school should be registered at the
6 additional educational level, the Minister must appoint a panel to
7 report to the Minister on the application.
- 8 (3) If the Minister is satisfied after considering the panel's report that
9 the school meets the criteria mentioned in subsection (7), the
10 Minister must direct the registrar to register the school at the
11 additional educational level.
- 12 (4) If the Minister directs the registrar to register the school at the
13 additional educational level, the registrar must register the school at
14 the additional educational level by—
- 15 (a) entering the particulars of the school required under the
16 regulations in the register of non-government schools; and
- 17 (b) giving the proprietor of the school a certificate of registration
18 that includes the additional educational level.
- 19 (5) If the registrar gives the proprietor a certificate of registration under
20 subsection (4) (b) (the *new certificate*), the proprietor must return
21 the school's existing certificate of registration to the registrar within
22 14 days after receiving the new certificate.
- 23 (6) If the Minister is not satisfied after considering the panel's report
24 that the school meets the criteria for registration mentioned in
25 subsection (7), the Minister must direct the registrar to refuse to
26 register the school at the additional educational level.
- 27 (7) The criteria for registration of a school at an additional educational
28 level are that—
- 29 (a) the school will have adequate facilities and equipment for the
30 safety, health and welfare of its students, taking the additional
31 educational level into account; and

- 1 (b) the nature and content of the education to be offered at the
2 school will be satisfactory for the additional educational level;
3 and
4 (c) the teaching staff will be efficient and effective for the
5 additional educational level.

6 **78 Conditions of provisional registration or registration**

7 The conditions of provisional registration or registration of a school
8 under this part are that—

- 9 (a) the school has adequate facilities and equipment for the safety,
10 health and welfare of its students; and
11 (b) the nature and content of the education offered at the school
12 are satisfactory for the educational levels for which the school
13 is provisionally registered or registered; and
14 (c) the teaching staff are efficient and effective; and
15 (d) the school is conducted in a satisfactory way; and
16 (e) the disciplinary policy of the school will not allow corporal
17 punishment.

18 **79 Certificate of provisional registration or registration**

- 19 (1) A certificate of provisional registration or registration of a non-
20 government school must—
21 (a) state the entity responsible for the operation of the school; and
22 (b) state the educational level or levels for which the school is
23 provisionally registered or registered under this part; and
24 (c) state where the school is to be located; and
25 (d) state the term of provisional registration or registration; and
26 (e) include any other particulars required under the regulations.

Section 80

1 (2) The registrar may include any other particulars in the certificate that
2 the registrar considers appropriate.

3 (3) The proprietor of a registered non-government school must tell the
4 Minister about a change in any of the particulars of the certificate
5 within 1 month after the change happens.

6 **80 Duration of provisional registration and registration**

7 (1) Provisional registration of a school ends when the earliest of the
8 following happens:

9 (a) 1 year after the school is provisionally registered;

10 (b) the school is registered under section 75 (Registration).

11 (2) Registration of a school is for a term not longer than 5 years stated
12 in the school's certificate of registration.

13 **81 Cancellation of provisional registration or registration**

14 (1) The Minister may cancel the provisional registration or registration
15 of a school if satisfied on reasonable grounds—

16 (a) that a condition of the school's provisional registration or
17 registration has been contravened; or

18 (b) that the school's proprietor or principal has otherwise
19 contravened this Act.

20 *Note* Section 78 (Conditions of provisional registration or registration) sets
21 out the conditions of registration.

22 (2) Before cancelling the provisional registration or registration of a
23 school, the Minister must give the proprietor of the school a written
24 notice—

25 (a) stating the grounds on which the Minister proposes to cancel
26 the provisional registration or registration; and

27 (b) stating the facts that, in the Minister's opinion, establish the
28 grounds; and

- 1 (c) telling the proprietor that the proprietor may, within 14 days
2 beginning the day after receiving the notice, give a written
3 response to the Minister about the matters in the notice.
- 4 (3) In deciding whether to cancel provisional registration or registration,
5 the Minister must consider any response given to the Minister in
6 accordance with subsection (2) (c).
- 7 (4) If the Minister is satisfied that the grounds for cancelling the
8 provisional registration or registration have been established, the
9 Minister may direct the registrar to cancel the school's provisional
10 registration or registration.
- 11 (5) If the Minister directs the registrar to cancel the school's provisional
12 registration or registration, the registrar must cancel the provisional
13 registration or registration by noting the cancellation in the
14 particulars of the school in the register of non-government schools.
- 15 (6) The Minister must give the proprietor written notice of the
16 Minister's decision.
- 17 (7) Cancellation of provisional registration or registration takes effect
18 on the day when notice of the cancellation is given to the proprietor
19 or, if the notice states a later date of effect, that date.

20 **82 Application for renewal of registration**

21 The proprietor of a non-government school that is registered under
22 this part may apply in writing to the Minister for renewal of the
23 registration.

24 **83 Renewal of registration**

- 25 (1) This section applies if application is made under section 82
26 (Application for renewal of registration) for renewal of registration
27 of a school.
- 28 (2) If the Minister is satisfied that the school meets the criteria for
29 renewal of registration mentioned in subsection (5), the Minister
30 must direct the registrar to renew the registration of the school.

Section 83

- 1 (3) If the Minister directs the registrar to renew the registration of the
2 school, the registrar must renew the registration by—
- 3 (a) entering the particulars of the school required under the
4 regulations in the register of non-government schools; and
- 5 (b) giving the proprietor of the school a certificate of registration
6 for the school.
- 7 (4) If the Minister is not satisfied that the school meets the criteria for
8 renewal of registration mentioned in subsection (5), the Minister
9 must direct the registrar to refuse to renew the registration of the
10 school.
- 11 (5) The criteria for renewal of registration of a school are that—
- 12 (a) the school has adequate facilities and equipment for the safety,
13 health and welfare of its students; and
- 14 (b) the nature and content of the education offered at the school is
15 satisfactory for the educational levels of the school for which
16 renewal of registration of the school is sought; and
- 17 (c) the teaching staff are efficient and effective; and
- 18 (d) the school is conducted in a satisfactory way; and
- 19 (e) the disciplinary policy of the school does not allow corporal
20 punishment.

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2 **Part 4.3 Attendance at non-**
3 **government schools**
4

5 **84 Register of enrolments and attendances for non-**
6 **government schools**

7 The principal of a non-government school, or the person giving an
8 approved educational course (non-government), must keep a register
9 of enrolments and attendances.

10 Maximum penalty: 10 penalty units.

11 **85 Keeping records of enrolment and attendances for non-**
12 **government schools**

13 The principal of a non-government school, or the person giving an
14 approved educational course (non-government), must enter in the
15 register of enrolments and attendances—

16 (a) the name of each child who is enrolled at the school or course;
17 and

18 (b) a record of the attendance or nonattendance of the child at the
19 school or course on every day when the school or course is
20 open for attendance.

21 Maximum penalty: 10 penalty units.

22 **86 Inspection of register of enrolment and attendances for**
23 **non-government schools**

24 (1) The principal of a non-government school, or the person giving an
25 approved educational course (non-government), must make the
26 register of enrolments and attendances available for inspection by an
27 authorised person (non-government) if the authorised person asks
28 for the register to be made available.

29 Maximum penalty: 10 penalty units.

Section 87

- 1 (2) If the Minister or an authorised person (non-government) asks the
2 principal of a non-government school, or the person giving an
3 approved educational course (non-government), to give the Minister
4 or authorised person stated information about enrolments or
5 attendances of children at the school or course during a stated period
6 or at a stated time, the principal or person must not, without
7 reasonable excuse, fail to give the information in accordance with
8 the request.

9 Maximum penalty: 50 penalty units.

- 10 (3) An authorised person (non-government) may make copies of the
11 register of enrolments and attendances or any part of the register.

- 12 (4) The principal of a non-government school, or the person giving an
13 approved educational course (non-government), must take
14 reasonable steps to assist an authorised person in exercising
15 functions under this section.

16 **87 Procedures to encourage school attendance**

- 17 (1) The principal of a non-government school must set up procedures—
18 (a) to encourage children to attend school regularly; and
19 (b) to help parents to encourage their children to attend school
20 regularly.
- 21 (2) The procedures must include referral to entities that give assistance
22 to parents and children to encourage children to attend school
23 regularly when the procedures mentioned in subsection (1) are not
24 successful.
- 25 (3) If a child who is enrolled at a non-government school has not been
26 attending school regularly, the principal of the school may, by
27 written notice, require the parents of the child, together with the
28 child, to meet with an authorised person (non-government) at a
29 stated place and time.

1

2 **Part 4.4** **Non-government Schools**
3 **Ministerial Advisory**
4 **Committee**

5 **Division 4.4.1** **Establishment and membership**

6 **88** **Establishment of committee**

7 The Non-government Schools Ministerial Advisory Committee is
8 established.

9 **89** **Functions of committee**

10 (1) The functions of the committee are—

- 11 (a) to advise the Minister on any aspect of non-government
12 schooling; and
13 (b) when asked by the Minister, to inquire into and give advice to
14 the Minister on any aspect of non-government schooling; and
15 (c) to exercise any other function given to the committee under
16 this Act or any other Territory law.

17 **90** **Membership of committee**

18 The committee consists of the members appointed under section 91.

19 **91** **Appointment of members of committee**

20 The Minister must appoint the following members of the committee:

- 21 (a) a chairperson;
22 (b) a deputy chairperson;
23 (c) 9 people, who in the Minister's opinion, represent the general
24 community, non-government schools and school systems, and

1 parents of children and teachers at non-government schools
2 (the *representative members*).

3 *Note 1* A person may be reappointed to a position if the person is eligible for
4 appointment to the position (see *Interpretation Act 1967*, s 28 (3) (c)
5 and dict, def of *appoint*).

6 *Note 2* The power to appoint a person to a position includes power to appoint a
7 person to act in the position (see *Interpretation Act 1967*, s 28 (4)-(6)
8 and s 28A).

9 **92 Term of appointment to committee**

10 (1) A member of the committee is to be appointed for a term not longer
11 than 3 years.

12 (2) The instrument appointing, or evidencing the appointment of, a
13 member of the committee—

14 (a) must state—

15 (i) the term for which the member is appointed; and

16 (ii) whether the person is appointed as chairperson, deputy
17 chairperson or a representative member; and

18 (b) for a representative member—may state the group (if any)
19 represented by the member.

20 **93 Ending of appointment to committee**

21 (1) The Minister must end the appointment of a representative member
22 if satisfied that the member is no longer a representative of the
23 group (if any) represented by the member.

24 (2) The Minister may end the appointment of a member of the
25 committee—

26 (a) for misbehaviour; or

27 (b) for contravening section 97 (Disclosure of interests by
28 members of committee).

1 **94 Conditions of appointment generally of committee**
2 **members**

3 A member of the committee holds the position on the conditions not
4 provided by this Act or another Territory law that are decided by the
5 Minister.

6 **Division 4.4.2 Proceedings of committee**

7 **95 Time and place of meetings of committee**

8 The committee is to meet at the times and places it decides.

9 **96 Proceedings of committee**

- 10 (1) The committee must keep minutes of its meetings.
11 (2) The committee may conduct its proceedings (including its meetings)
12 as it considers appropriate.

13 **97 Disclosure of interests by members of committee**

- 14 (1) This section applies to a member of the committee if—
15 (a) the member has a direct or indirect financial interest in an issue
16 being considered, or about to be considered, by the committee;
17 and
18 (b) the interest could conflict with the proper exercise of the
19 member's functions in relation to the committee's
20 consideration of the issue.
21 (2) As soon as practicable after the relevant facts come to the member's
22 knowledge, the member must disclose the nature of the interest to a
23 meeting of the committee.
24 (3) The disclosure must be recorded in the committee's minutes and,
25 unless the committee otherwise decides, the member must not—
26 (a) be present when the committee considers the issue; or
27 (b) take part in a decision of the committee on the issue.

- 1 (4) Any other member who also has a direct or indirect financial interest
2 in the issue must not—
- 3 (a) be present when the committee is considering its decision
4 under subsection (3); or
- 5 (b) take part in making the decision.
- 6 (5) Within 14 days after the end of each financial year, the chairperson
7 of the committee must give the Minister a statement of any
8 disclosure of interest made under this section during the financial
9 year.

3 **Division 4.5.1** **Authorised persons (non-** 4 **government)**

(1) The Minister may, in writing, appoint a person to be an authorised person (non-government) for this chapter or a provision of this chapter.

(3) A person may be appointed as an authorised person (non-government) under subsection (1) only if—

(b) the registrar has certified in writing that, after appropriate inquiry, the registrar is satisfied that the person is a suitable person to be appointed, having regard in particular to—

19 (ii) the person's employment record; and

(c) the person has satisfactorily completed adequate training to exercise the powers of an authorised person (non-government) proposed to be given to the person.

(1) The registrar must issue an authorised person (non-government) with an identity card that states the person is an authorised person (non-government) for this chapter, or stated provisions of this chapter, and shows—

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- 1 (b) the name of the person; and
2 (c) the date of issue of the card; and
3 (d) a date of expiry for the card; and
4 (e) anything else prescribed under the regulations.
5 (2) A person who ceases to be an authorised person (non-government)
6 must return his or her identity card to the registrar as soon as
7 practicable, but within 21 days after ceasing to be an authorised
8 person.
9 Maximum penalty (subsection (2)): 1 penalty unit.

10 **Division 4.5.2 Inspection powers for**
11 **non-government schools**

12 **100 Power not to be exercised before identity card shown etc**

- 13 (1) An authorised person (non-government) may exercise a power
14 under this chapter in relation to a person only if the authorised
15 person first shows the person his or her identity card.
16 (2) An authorised person (non-government) may not remain in a non-
17 government school entered under this division if, on request by the
18 principal, the authorised person does not produce his or her identity
19 card.

20 **101 Entry to non-government schools for routine inspections**

- 21 To find out whether this Act is being complied with, an authorised
22 person (non-government) may enter a non-government school at any
23 time when it is being used as a school under this Act.

24 **102 Entry to non-government schools with consent**

- 25 (1) An authorised person (non-government) may enter a non-
26 government school at any other time if the principal of the school
27 consents to the entry.

- 1 (2) An authorised person (non-government) may, without the
2 principal's consent, enter the non-government school to ask for
3 consent to enter the school.

4 **103 Consent to entry**

- 5 (1) This section applies if an authorised person (non-government)
6 intends to ask the principal of a non-government school to consent
7 to the authorised person entering the school.

- 8 (2) Before asking for the consent, the authorised person (non-
9 government) must tell the principal—

- 10 (a) the reason for the entry; and
11 (b) that the principal is not required to consent.

- 12 (3) If the consent is given, the authorised person (non-government) may
13 ask the principal to sign an acknowledgment of the consent.

- 14 (4) The acknowledgment must state that—

- 15 (a) the principal was told—

- 16 (i) the reason for the entry; and
17 (ii) that the principal is not required to consent; and

- 18 (b) the principal gives an authorised person (non-government)
19 consent to enter the school and exercise powers under this
20 chapter; and

- 21 (c) the time and date the consent was given.

- 22 (5) If the principal signs an acknowledgment of consent, the authorised
23 person (non-government) must immediately give a copy to the
24 principal.

- 25 (6) A court may presume that the principal did not consent if—

- 26 (a) a question arises, in a proceeding in the court, whether the
27 principal consented to the authorised person (non-government)
28 entering the school under this chapter; and

1 (b) an acknowledgment under this section is not produced in
2 evidence for the entry; and

3 (c) it is not proved that the principal consented to the entry.

4 **104 Powers on entry**

5 An authorised person (non-government) who enters a non-
6 government school under section 101 (Entry to non-government
7 schools for routine inspections) or 102 (Entry to non-government
8 schools with consent) may inspect the school or anything in it
9 (including the register of enrolments and attendances).

10 **Division 4.5.3 Miscellaneous**

11 **105 Inspection of register of non-government schools**

12 (1) A person may, without charge, inspect the register of non-
13 government schools during the office hours of the office of the
14 registrar.

15 (2) A person may, on payment of the reasonable copying costs, obtain a
16 copy of all or part of the register.

1

2 **Chapter 5 Home-schooling**

3 **Part 5.1 Registration**

4

5 **106 Meaning of *home-schooling***

6 In this Act:

7 *home-schooling*, in relation to a child, means schooling in the
8 child's home.

9 **107 Application for registration for home-schooling**

10 A parent of a child may apply in writing to the chief executive for
11 registration of the child for home-schooling.

12 **108 Criteria for registration for home-schooling**

13 (1) The chief executive may register a child for home-schooling if
14 satisfied that the conditions for registration will be complied with.

15 (2) To decide whether the conditions for registration will be complied
16 with, an authorised person (government) may inspect premises
17 where it is proposed to conduct home-schooling and any education
18 programs, materials or other records proposed to be used for the
19 home-schooling.

20 **109 Conditions of registration for home-schooling**

21 The registration of a child for home-schooling is subject to the
22 following conditions:

23 (a) the parents of the child are to provide a satisfactory course of
24 education for the child;

25 (b) the premises, and facilities at the premises, where the
26 schooling takes place are adequate for home-schooling;

Section 110

- 1 (c) the education program, premises and facilities are subject to
- 2 annual review by the chief executive;
- 3 (d) the arrangements for home-schooling may be reviewed at any
- 4 time by an authorised person (government);
- 5 (e) the parents comply with this Act;
- 6 (f) to find out whether the other conditions of registration are
- 7 being complied with, an authorised person (government) is to
- 8 have reasonable access to the premises where the home-
- 9 schooling is conducted.

10 **110 Registration of child**

- 11 (1) If the chief executive approves the registration of a child for home-
- 12 schooling, the chief executive must—
- 13 (a) enter the particulars prescribed under the regulations in the
- 14 home-schooling register kept under section 115 (Home-
- 15 schooling register); and
- 16 (b) give the parents of the child a certificate of registration for the
- 17 child.
- 18 (2) The certificate of registration must state the period for which the
- 19 child is registered for home-schooling.

20 **111 Period of registration**

- 21 Registration of a child for home-schooling is for the period (not
- 22 longer than 2 years) stated in the certificate of registration.

23 **112 Cancellation of registration for home-schooling**

- 24 (1) The chief executive may cancel the registration of a child for home-
- 25 schooling if the chief executive is satisfied on reasonable grounds
- 26 that a parent has contravened a condition of the registration.
- 27 (2) Before cancelling registration, the chief executive must give the
- 28 parents a written notice—

- 1 (a) stating the grounds on which the chief executive proposes to
2 cancel the registration; and
- 3 (b) stating the facts that, in the chief executive's opinion, establish
4 the grounds; and
- 5 (c) telling the parents that they may, within 14 days beginning the
6 day after receiving the notice, give a written response to the
7 chief executive about the matters in the notice.
- 8 (3) In deciding whether to cancel registration, the chief executive must
9 consider any response given to the chief executive in accordance
10 with subsection (2) (c).
- 11 (4) The chief executive must give the parents written notice of the
12 decision.
- 13 (5) Cancellation of registration takes effect on the day when notice of
14 the cancellation is given to the parents or, if the notice states a later
15 date of effect, that date.

16 **113 Certificate of registration for home-schooling**

17 A certificate of registration for home-schooling must state—

- 18 (a) the name of the child registered for home-schooling; and
- 19 (b) the name of the child's parents or parent; and
- 20 (c) where the home-schooling is to be given and the parts of the
21 premises to be used for the home-schooling; and
- 22 (d) the period of registration; and
- 23 (e) the conditions of registration; and
- 24 (f) any other particulars prescribed under the regulations.

25 **114 Annual home-schooling reports**

26 The parents of a child registered for home-schooling must give the
27 chief executive an annual report about the educational progress of
28 the child.

1 **115 Home-schooling register**

2 The chief executive must keep a register of children registered for
3 home-schooling.

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Part 5.2 Inspection powers for home-schooling premises

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116 Power not to be exercised before identity card shown etc

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- (1) An authorised person (government) may exercise a power under this chapter in relation to a person only if the authorised person first shows the person his or her identity card.

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- (2) An authorised person (government) may not remain on premises entered under this division if, on request by the occupier, the authorised person does not produce his or her identity card.

12

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117 Entry to home-schooling premises for routine inspections

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To find out whether this Act is being complied with, an authorised person (government) may enter the parts of premises stated in a certificate of registration for home-schooling as the parts of the premises to be used for the home-schooling at any time when they are being used for home-schooling under this Act.

19

118 Entry to home-schooling premises with consent

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- (1) An authorised person (government) may enter premises where a child is registered for home-schooling at any other time if a parent of the child consents to the entry.

23

24

25

- (2) An authorised person (government) may, without a parent's consent, enter land around the premises to ask for consent to enter the premises.

26

119 Consent to entry

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- (1) This section applies if an authorised person (government) intends to ask the parent of a child to consent to the person entering premises where the child is registered for home-schooling.

Section 120

- 1 (2) Before asking for the consent, the authorised person (government)
2 must tell the parent—
3 (a) the reason for the entry; and
4 (b) that the parent is not required to consent.
5 (3) If the consent is given, the authorised person (government) may ask
6 the parent to sign an acknowledgment of the consent.
7 (4) The acknowledgment must state that—
8 (a) the parent was told—
9 (i) the reason for the entry; and
10 (ii) that the parent is not required to consent; and
11 (b) the parent gives an authorised person (government) consent to
12 enter the place and exercise powers under this chapter; and
13 (c) the time and date the consent was given.
14 (5) If the parent signs an acknowledgment of consent, the authorised
15 person (government) must immediately give a copy to the parent.
16 (6) A court may presume that the parent did not consent if—
17 (a) a question arises, in a proceeding in the court, whether the
18 parent consented to the authorised person (government)
19 entering the premises under this chapter; and
20 (b) an acknowledgment under this section is not produced in
21 evidence for the entry; and
22 (c) it is not proved that the parent consented to the entry.

23 **120 Powers on entry**

24 An authorised person (government) who enters premises under
25 section 117 (Entry to home-schooling premises for routine
26 inspections) or 118 (Entry to home-schooling premises with
27 consent) may inspect the parts of premises stated in a certificate of

- 1 registration for home-schooling as the parts of the premises to be
2 used for home-schooling or anything in them.

Chapter 6 Miscellaneous

Part 6.1 Review of decisions

121 Meaning of *reviewable decisions* for pt 6.1

In this part:

reviewable decision means—

(a) a decision of the Minister—

- (i) to direct the registrar to refuse to provisionally register a school (s 73 (Provisional registration)); or
- (ii) to direct the registrar to refuse to register a school (s 75 (Registration)); or
- (iii) to direct the registrar to refuse to register a school with additional educational levels (s 77 (Registration at additional educational levels)); or
- (iv) to direct the registrar to cancel a school's provisional registration or registration (s 81 (Cancellation of provisional registration or registration)); or
- (v) to refuse to renew the registration of a school (s 83 (Renewal of registration)); or

(b) a decision of the chief executive—

- (i) to refuse to issue an exemption certificate on application (s 13 (Exemption certificates)); or
- (ii) to revoke an exemption certificate (s 15 (Revocation of exemption certificates)); or

- 1 (iii) to suspend a child for longer than 5 days or to exclude or
- 2 transfer a child (s 31 (Suspension, exclusion or transfer of
- 3 child by chief executive)); or
- 4 (iv) to refuse to register a child for home-schooling (s 108
- 5 (Criteria for registration for home-schooling)); or
- 6 (v) to cancel the registration of a child for home-schooling
- 7 (s 112 (Cancellation of registration for home-schooling)).

8 **122 Notice of decisions to be given to affected people**

- 9 (1) If the Minister or chief executive (the *decision-maker*) makes a
- 10 reviewable decision, the decision-maker must give written notice of
- 11 the decision to each person whose interests are affected by the
- 12 decision.
- 13 (2) The notice must be in accordance with the requirements of the code
- 14 of practice in force under the *Administrative Appeals Tribunal Act*
- 15 *1989*, section 25B (1) and, in particular, the notice must tell the
- 16 person—
- 17 (a) whether the person has the right to apply for internal review of
- 18 the decision or the right to apply to the administrative appeals
- 19 tribunal for review of the decision, and how the application
- 20 must be made; and
- 21 (b) if the person has the right to apply for internal review of the
- 22 decision—that person has the right to apply to the
- 23 administrative appeals tribunal for review of the decision on
- 24 the internal review if the person is dissatisfied with that
- 25 decision; and
- 26 (c) about the options available under other ACT laws to have the
- 27 decision reviewed by a court or the ombudsman.

Section 123

1 **123 Who may apply for internal review of decisions**

- 2 (1) A person whose interests are affected by a reviewable decision may
3 apply in writing to the decision-maker for internal review of the
4 decision.
- 5 (2) The decision-maker must arrange for someone else (the *internal*
6 *reviewer*) to review the decision.
- 7 (3) However, this section does not apply to a reviewable decision made
8 personally by the Minister or chief executive.

9 **124 Applications for internal review**

- 10 (1) An application for internal review of a reviewable decision must be
11 made within—
- 12 (a) 28 days after the day when the applicant is told about the
13 decision by the decision-maker; or
- 14 (b) any longer period allowed by the internal reviewer, either
15 before or after the end of the 28 days.
- 16 (2) The application must set out the grounds on which internal review
17 of the decision is sought.
- 18 (3) The making of the application for internal review of the decision
19 does not affect the operation of the decision.

20 **125 Internal review**

- 21 (1) The internal reviewer must review the reviewable decision, and
22 confirm, vary or revoke the decision, within 28 days after the
23 decision-maker receives the application for internal review of the
24 decision.
- 25 (2) If the decision is not varied or revoked within the 28 days, the
26 decision is taken to have been confirmed by the internal reviewer.
- 27 (3) As soon as practicable after reviewing the decision, the internal
28 reviewer must give written notice of the decision on the internal
29 review to the applicant.

- 1 (4) The notice must be in accordance with the requirements of the code
2 of practice in force under the *Administrative Appeals Tribunal Act*
3 1989, section 25B (1).

4 **126 Review by administrative appeals tribunal of certain**
5 **decisions**

6 A person may apply in writing to the administrative appeals tribunal
7 for review of—

- 8 (a) a decision made by an internal reviewer; or
9 (b) a reviewable decision made personally by the Minister or the
10 chief executive.

Part 6.2 Other provisions

127 Preschools

In exercising functions in relation to a government preschool, the chief executive must take the steps necessary to encourage, and give opportunities to, parents of children attending the preschool to participate in the conduct of the preschool.

128 Offences on school premises

- (1) A person must not, without reasonable excuse, trespass on school premises.

Maximum penalty: 5 penalty units.

- (2) A person must not, without reasonable excuse—

(a) behave in an offensive or disorderly way on school premises;
or

(b) fail to leave school premises when directed to do so by a police officer, the principal or a person authorised by the principal.

Maximum penalty: 10 penalty units.

- (3) In this section:

school premises means land (including any building or structure on the land) occupied by a school.

129 Obligations on parents

- (1) For this Act, if an obligation is expressed to apply to the parents of a child it is sufficient for any parent of the child to carry out the obligation.

- (2) For this Act, if an obligation is expressed to apply to the parents of a child and no parent carries out the obligation, each parent is liable for the failure to carry out the obligation.

1 **130 Notification of parents**

2 For this Act, if notice is required to be given to the parents of a
3 child, or there is an obligation to ask or tell the parents of a child
4 something, it is sufficient if a parent of the child is given notice or
5 asked or told the thing.

6 **131 False or misleading statements**

7 A person must not—

8 (a) state anything to the chief executive, registrar or an authorised
9 person that the person knows is false or misleading in a
10 material particular; or

11 (b) omit from a statement made to the registrar or an authorised
12 person anything without which the statement is, to the person's
13 knowledge, misleading in a material particular.

14 Maximum penalty: 50 penalty units.

15 **132 Minister may grant scholarships etc**

16 The Minister may give bursaries, exhibitions, free places, prizes,
17 scholarships or other forms of assistance or reward to be used for
18 the benefit of a student at a school, college or university in the ACT
19 on conditions decided by the Minister.

20 **133 Educational trust funds etc may be transferred to**
21 **Territory**

22 A person administering a trust fund or trust property established for
23 the creation of a bursary, exhibition, free place, prize, scholarship or
24 other form of assistance or reward to be used for the benefit of a
25 student at a school, college or university in the ACT, or for
26 educational purposes generally, may transfer the fund or property to
27 the Territory.

Section 134

134 Conditions for acceptance of gifts etc for educational purposes

(1) This section applies if a person—

(a) gives money or property to the Territory for setting up, or assisting in the giving of, a form of assistance or reward mentioned in section 132 (Minister may grant scholarships etc); or

(b) transfers a trust fund or trust property to the Territory under section 133 (Educational trust funds etc may be transferred to Territory).

(2) The Minister must consider the wishes of the donor of the gift, or the creator or transferor of the trust fund or trust property, about the creation, keeping or naming of the gift, trust fund or trust property.

(3) However, the Minister may change the terms of creation or keeping of the gift, trust fund or trust property.

(4) The Minister may, on behalf of the Territory—

(a) sell, invest or exchange all or any part of the gift, trust fund or trust property; or

(b) invest all or any part of the proceeds of sale of the gift, trust fund or trust property; or

(c) apply all or any part of the gift, trust fund or trust property toward any of the purposes mentioned in section 133; or

(d) execute deeds and grant releases; or

(e) exercising any other powers that could be exercised on the donor of the gift or the creator or transferor of the trust fund or trust property; or

(f) do anything else the Minister is permitted to do under the regulations.

- 1 (5) The Minister is taken not to be a trustee of any gift made, or any
2 trust fund or trust property transferred, to the Territory under
3 section 133.

4 **135 Approved forms**

- 5 (1) The Minister may approve forms for this Act.
6 (2) If the Minister approves a form for a particular purpose, the
7 approved form must be used for that purpose.
8 (3) An approved form is a notifiable instrument.

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

10 **136 Regulation-making power**

- 11 (1) The Executive may make regulations for this Act.
12 *Note* Regulations must be notified, and presented to the Legislative
13 Assembly, under the *Legislation Act 2001*.
14 (2) The regulations may prescribe offences for contraventions of the
15 regulations and prescribe maximum penalties of not more than 10
16 penalty units for offences against the regulations.

1

2 **Chapter 7 Transitional provisions**

3 **Part 7.1 General**

4

5 **137 Meaning of *former authority***

6 In this part:

7 *former authority* means the authority under the repealed *Schools*
8 *Authority Act 1976*.

9 **138 Repeal of Acts**

10 The following Acts are repealed:

11 *Education Act 1937* No 25

12 *Free Education Act 1906*

13 *Public Instruction Act 1880*

14 *Schools Authority Act 1976* No 59

15 **139 Repeal of subordinate laws**

16 The following subordinate laws are repealed:

17 *Schools Authority Regulations* (Subordinate Law 1978 No 11)

18 *Schools Authority Regulations* (Subordinate Law 1979 No 7).

19 **140 Acts amended—sch 1**

20 Schedule 1 amends the Acts mentioned in that schedule.

Part 7.2 Assets and liabilities of former authority

141 Vesting of assets and liabilities of former authority in Territory

- (1) The assets or liabilities of the former authority vest in the Territory.
- (2) If an asset or liability that vests in the Territory is mentioned in a contract, agreement or arrangement, a reference in the contract, agreement or arrangement to the former authority is, in relation to anything happening or to happen in relation to the asset or liability after the vesting of the asset in the Territory, a reference to the Territory.

142 Evidentiary certificate for vested assets and liabilities

- (1) The chief executive may certify that an asset or liability has vested in the Territory under section 141.
- (2) A certificate under subsection (1) is evidence of the matters it states.
- (3) A document purporting to be a certificate signed by the chief executive under subsection (1) is taken to be such a certificate, and to have been so signed, unless the contrary is proved.

143 Registration of changes in title to certain assets

- (1) In this section:
registering authority, for a registrable asset, means the person who, under Territory law, is required or permitted to enter particulars about the ownership of the asset in a register.
registrable asset means an asset, including an interest in land, particulars of the ownership of which are required or permitted under Territory law to be entered in a register.

- (2) This section applies if—

Section 144

- 1 (a) a registrable asset vests in the Territory under section 141
2 (Vesting of assets and liabilities of former authority in
3 Territory); and
- 4 (b) the Territory gives the registering authority for the asset a
5 certificate under section 142 (Evidentiary certificate for vested
6 assets and liabilities) for the asset.
- 7 (3) The registering authority must make the entries in the appropriate
8 register kept by the registering authority, and do anything else
9 necessary or desirable to be done, to reflect the vesting of the asset
10 in the Territory.
- 11 (4) The evidentiary value of a register mentioned in this section is not
12 affected by—
- 13 (a) the making of an entry under this section; or
- 14 (b) the failure to make an entry under this section; or
- 15 (c) the failure by the Territory to give a certificate to the
16 registering authority for a registrable asset.

17 **144 Proceedings and evidence in relation to vested assets**
18 **and liabilities**

- 19 (1) This section applies in relation to an asset or liability that vests in
20 the Territory under section 141 (Vesting of assets and liabilities of
21 former authority in Territory).
- 22 (2) If a proceeding had been begun in relation to the asset or liability
23 before it vested in the Territory and the former authority is a party to
24 the proceeding, the Territory is substituted for the former authority
25 as a party to the proceeding.
- 26 (3) If a proceeding could have been begun by or against the former
27 authority in relation to the asset or liability before it vested in the
28 Territory, the proceeding may be begun by or against the Territory.
- 29 (4) The *Limitation Act 1985* applies to a cause of action that accrued to
30 or against the former authority in relation to the asset or liability as

- 1 if the cause of action had accrued to or against the Territory when it
2 accrued to or against the former authority.
- 3 (5) The court or other entity in which a proceeding is begun or
4 continued by or against the Territory in relation to the asset or
5 liability may give directions about the conduct of the proceeding.
- 6 (6) Any evidence that would have been admissible for or against the
7 former authority in the proceeding is admissible for or against the
8 Territory.
- 9 (7) In this section:
- 10 *proceeding* includes a right of appeal or review (including a right of
11 review under the *Ombudsman Act 1989*) or any other civil
12 proceeding.

Part 7.3 General savings

145 Definitions for div 7.3

In this division:

commencement means the commencement of this division.

former authority Act means the *Schools Authority Act 1976*.

former education Act means the *Education Act 1937*.

146 Existing schools etc

(1) A preschool, primary school, high school or secondary college established under the former authority Act, section 6 (1) (a) (i) that was in existence immediately before the commencement is taken, after the commencement, to be a school of that kind established under section 17 (1) (Establishing government schools etc) of this Act.

(2) A school or other educational or related institution, educational service, or educational or related service established under the former authority Act, section 6 (other than section 6 (1) (a) (i)), that was in existence immediately before the commencement is taken, after the commencement, to be a school related educational institution established under section 17 (3) (Establishing government schools etc) of this Act.

147 Name of schools, institutions and services

(1) This section applies to a preschool, primary school, high school or secondary college, a school or other educational related institution, or an educational or related service, established under the former authority Act that was in existence immediately before the commencement.

(2) A name given to the preschool, school, college, institution or service that it had immediately before the commencement is taken, after the

1 commencement, to have been given to it under section 17 (4)
2 (Establishing government schools etc) of this Act.

3 **148 School boards**

4 A school board established under section 37 of the former authority
5 Act and in existence immediately before the commencement is
6 taken, after the commencement, to have been established under
7 section 34 (Establishment of school boards) of this Act.

8 **149 Members of school boards**

9 A person who was a member of a school board under section 40, 41
10 or 42 of the former authority Act immediately before the
11 commencement is taken, on the commencement, to be a member of
12 the school board appointed under section 37 (Constitution of school
13 boards generally), section 38 (Constitution of school boards of small
14 schools), or section 39 (Constitution of school boards of school
15 related institutions and other schools in special circumstances), as
16 the case requires, of this Act for the remainder of the term for which
17 the member was appointed.

18 **150 Exemption certificates**

19 An exemption certificate given under the former education Act,
20 section 16 that was in force immediately before the commencement
21 is taken, after the commencement, to be a certificate issued under
22 section 13 (Exemption certificates) of this Act for the remainder of
23 the term for which it was given.

24 **151 Registers**

25 (1) A register of attendances kept under the former education Act,
26 section 15 is taken, after the commencement, to be a register of
27 enrolments and attendances under section 28 (Keeping records of
28 enrolment and attendances for government schools) or section 85
29 (Keeping records of enrolment and attendances for non-government
30 schools), as the case requires, of this Act.

Section 152

- 1 (2) A list of registered primary schools and a list of registered
2 secondary schools kept under the former education Act, section 28
3 is taken, after the commencement, to be a register of non-
4 government schools kept by the registrar under section 69 (Register
5 of non-government schools) of this Act.

6 **152 Parents and citizens associations**

- 7 A parents and citizens association declared under the former
8 authority Act, section 36 (2) for a government school immediately
9 before the commencement is taken, after the commencement, to be
10 the parents and citizens association declared under section 36
11 (Declaration of parents and citizens associations) of this Act for the
12 school.

13 **153 Expiry of ch 7**

- 14 This part expires 1 year after it commences.

15 **154 Declared law for Legislation Act 2001, s 88**

- 16 This Act is an Act to which the *Legislation Act 2001*, section 88
17 (Repeal does not end transitional or validating effect etc) applies.

1

2 **Schedule 1** **Consequential amendments**
3 **of other laws**

4 **Part 1** **Children and Young People**
5 **Act 1999**

6 **[1.1] Section 330 (e)**

7 *substitute*

- 8 (e) by a government school or non-government school under the
9 *Education Act 2001*, whether provided during or outside school
10 hours; or

11 **[1.2] Section 373 (a)**

12 *substitute*

- 13 (a) a contravention of the *Education Act 2001* in relation to the
14 young child; or

15 **[1.3] Section 378**

16 *substitute*

17 **378 Part subject to certain provisions of Education Act**

18 This part has effect subject to the *Education Act 2001*, section 10
19 (Compulsory attendance).

20 **[1.4] Dictionary, definition of *school***

21 *substitute*

22 *school* means—

- 23 (a) a government or non-government school under the *Education*
24 *Act 2001*; or
25 (b) an educational institution conducted by the Canberra Institute
26 of Technology.

1 **[1.5] Dictionary, definition of *school-leaving age***

2 *substitute*

3 *school-leaving age* means 15 years old.

4 **Part 2 Crimes Act 1900**

5 **[1.6] Dictionary, definition of *school***

6 *substitute*

7 *school* means a government school, non-government school or
8 school related institution under the *Education Act 2001*.

9 **Part 3 Education Services for**
10 **Overseas Students**
11 **(Registration and Regulation**
12 **of Providers) Act 1994**

13 **[1.7] Section 6 (1) (a)**

14 *substitute*

15 (a) a registered non-government school under the *Education Act*
16 *2001*, other than a non-government school that is provisionally
17 registered under that Act; and

18 **[1.8] Section 6 (5) (b)**

19 *substitute*

20 (b) at the time it was approved, the school was a non-government
21 school provisionally registered or registered under the
22 *Education Act 2001*; and

1 **Part 4** **Intoxicated Persons (Care and**
2 **Protection) Act 1994**

3 **[1.9] Section 3 (1), definition of *school***

4 *substitute*

5 *school* means a government school, non-government school or
6 school related institution under the *Education Act 2001*.

7 **Part 5** **Legislation Act 2001**

8 **[1.10] Schedule 1, items about the *Public Instruction Act 1880***
9 **and the *Free Education Act 1906***

10 *omit*

11 **[1.11] Schedule 1**

12 *renumber items of schedule 1 when Act next republished under the*
13 *Legislation Act 2001.*

Dictionary

(see s 3)

appointed member—

- (a) for the school board of a government school, other than a small school, a school related institution or another school to which section 39 applies—see section 37 (Constitution of school boards generally); or
- (b) for the school board of a small school, other than a school to which section 39 applies—see section 38 (Constitution of school boards of small schools); or
- (c) for the council—see section 51 (Membership of council).

approved educational course means an approved educational course (government) or approved educational course (non-government).

approved educational course (government) means an educational course approved under section 25 (Approved educational courses for children at government schools).

approved educational course (non-government) means an educational course approved under section 70 (Approved educational courses for children at non-government schools).

authorised person means an authorised person (government) or authorised person (non-government).

authorised person (government) means a person who is an authorised person (government) under section 59 (Appointment of authorised persons (government)).

authorised person (non-government) means a person who is an authorised person (non-government) under section 98 (Appointment of authorised persons (non-government)).

- 1 ***board appointed member***—
- 2 (a) for the school board of a government school, other than a small
- 3 school, a school related institution or another school to which
- 4 section 39 applies—see section 37 (Constitution of school
- 5 boards generally); or
- 6 (b) for a school board of a small school, other than a school to
- 7 which section 39 applies—see section 38 (Constitution of
- 8 school boards of small schools).
- 9 ***carer***—see section 5 (Meaning of *parent* and *carer*).
- 10 ***committee*** means the Non-government Schools Ministerial
- 11 Advisory Committee.
- 12 ***compulsory school age***—see section 8 (Meaning of *compulsory*
- 13 *school age*).
- 14 ***corporal punishment*** means physical force applied to punish or
- 15 correct, and includes any action designed or likely to cause physical
- 16 pain or discomfort taken for such a purpose.
- 17 ***council*** means the Government School Education Council.
- 18 ***decision-maker***—see section 122 (Notice of decisions to be given to
- 19 affected people).
- 20 ***educational course*** means a course of teaching and learning
- 21 directed toward acquiring a particular area of knowledge and skills.
- 22 ***educational needs member***—see section 52 (Appointed members of
- 23 council).
- 24 ***exclusion***, from a school, means preventing a child from being
- 25 enrolled at the school.
- 26 ***exemption certificate*** means a certificate issued under section 13
- 27 (Exemption certificates).
- 28 ***government school*** means a school, preschool or school related
- 29 institution established under section 17 (Establishing government

- 1 schools etc), but in part 3.4 (School boards of government schools)
2 does not include a preschool.
- 3 **half-year**, for part 3.4 (School boards of government schools)—see
4 section 33 (Definitions for pt 3.4).
- 5 **home-schooling**—see section 106 (Meaning of *home-schooling*).
- 6 **internal-reviewer**—see section 123 (Who may apply for internal
7 review of decisions).
- 8 **money**, for part 3.4 (School boards of government schools)—see
9 section 33 (Definitions for pt 3.4).
- 10 **non-government school** means a registered non-government school.
- 11 **organisations member**—see section 52 (Appointed members of
12 council).
- 13 **parent**—see section 5 (Meaning of *parent* and *carer*).
- 14 **parents and citizens association**, for part 3.4 (School boards of
15 government schools)—see section 33 (Definitions for pt 3.4).
- 16 **parents and citizens member**—
- 17 (a) for the school board of a government school, other than a small
18 school, a school related institution or another school to which
19 section 39 applies—see section 37 (Constitution of school
20 boards generally); or
- 21 (b) for the school board of a small school, other than a school to
22 which section 39 applies—see section 38 (Constitution of
23 school boards of small schools).
- 24 **prescribed period**, for part 3.4 (School boards of government
25 schools)—see section 33 (Definitions for pt 3.4).
- 26 **proprietor**, of a non-government school, means the entity designated
27 in the school's certificate of registration or provisional registration
28 as the entity responsible for the operation of the school.
- 29 **registered non-government school** means a school that is registered
30 or provisionally registered under part 4.2.

1 ***register of enrolments and attendances***, in relation to a person,
2 means the register of enrolments and attendances kept by the person
3 under section 27 (Register of enrolments and attendances for
4 government schools) or section 84 (Register of enrolments and
5 attendances for non-government schools).

6 ***register of non-government schools*** means the register kept by the
7 registrar under section 69 (Register of non-government schools).

8 ***registrar*** means the Registrar of Non-Government Schools.

9 ***representative member***—see section 91 (Appointment of members
10 of committee).

11 ***reviewable decision***—see section 121 (Meaning of *reviewable*
12 *decisions* for pt 6.1).

13 ***school***—

14 (a) except in chapter 2, part 3.4 and chapter 4, means a school or
15 school related institution established under section 17
16 (Establishing government schools etc); and

17 (b) for chapter 2 (School enrolment and attendance)—means a
18 government school or non-government school; and

19 (c) for part 3.4 (Schools boards of government schools)—see
20 section 33 (Definitions for pt 3.4); and

21 (d) for chapter 4 (Non-government schools)—see section 65
22 (Meaning of *school* in ch 4).

23 ***school board***, of a government school, means the school board of
24 the school established under part 3.4.

25 ***school-leaving age*** means 15 years old.

26 ***school related institution***—see section 17 (Establishing government
27 schools etc).

28 ***small school***, for part 3.4 (School boards of government schools)—
29 see section 33 (Definitions for pt 3.4).

- 1 *staff*, of a school, means the principal, teachers and other people
2 employed at the school.
- 3 *staff member*—
- 4 (a) for the school board of a government school, other than a small
5 school, a school related institution or another school to which
6 section 39 applies—see section 37 (Constitution of school
7 boards generally); or
- 8 (b) for the school board of a small school, other than a school to
9 which section 39 applies—see section 38 (Constitution of
10 school boards of small schools).
- 11 *student*, for part 3.4 (School boards of government schools)—see
12 section 33 (Definitions for pt 3.4).
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Endnote

Penalty units

The *Interpretation Act 1967*, s 33AA deals with the meaning of offence penalties that are expressed in penalty units.