

AUSTRALIAN CAPITAL TERRITORY

Schools Authority (Amendment) Ordinance 1987

No. 70 of 1987

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I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 21 December 1987.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

R. KELLY
Minister of State for Defence
Science and Personnel

An Ordinance to amend the *Schools Authority Ordinance 1976*

PART I—PRELIMINARY

Short title

1. This Ordinance may be cited as the *Schools Authority (Amendment) Ordinance 1987*.¹

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister by notice in the *Gazette*.

Principal Ordinance

3. In this Ordinance, "Principal Ordinance" means the *Schools Authority Ordinance 1976*.²

PART II—AMENDMENTS OF THE PRINCIPAL ORDINANCE**Interpretation**

4. Section 4 of the Principal Ordinance is amended—

- (a) by omitting the definition of “Acting Chief Education Officer”;
- (b) by omitting the definition of “Chairman” and substituting the following definition:

“ ‘Chief Education Officer’ means the person appointed under subsection 8 (1) to be the Authority;”;

- (c) by omitting the definition of “House of Assembly”.

5. Parts III and IV of the Principal Ordinance are repealed and the following Part is substituted:

“PART III—ADMINISTRATION**Constitution of Authority**

“8. (1) The Minister shall appoint a person to be the Authority.

“(2) The Authority—

- (a) is a corporation sole by the name of the Australian Capital Territory Schools Authority;
- (b) has perpetual succession;
- (c) shall have an official seal; and
- (d) is capable, in the corporate name of the Authority, of suing and being sued.

“(3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Authority affixed to a document and shall presume that it was duly affixed.

Tenure of office

“9. (1) The Chief Education Officer holds office—

- (a) for such period, not exceeding 7 years, as is specified in the instrument of appointment; and
- (b) on such terms and conditions (if any) in respect of matters not provided for by this Ordinance as are determined by the Minister.

“(2) The Chief Education Officer is eligible for re-appointment.

“(3) Subsection (1) does not authorise the Minister to determine terms and conditions relating to superannuation.

“(4) A person who has attained the age of 65 years shall not be appointed or re-appointed as the Authority, and a person shall not be appointed or re-appointed as the Authority for a period that extends beyond the date on which he or she will attain the age of 65 years.

Remuneration and allowances

“10. (1) The Chief Education Officer shall be paid such remuneration and allowances as are prescribed.

“(2) Subsection (1) does not apply in relation to—

- (a) remuneration if there is a subsisting determination relating to the remuneration to be paid to the Chief Education Officer; or
- (b) an allowance of a particular kind if there is a subsisting determination relating to an allowance of that kind to be paid to the Chief Education Officer.

“(3) In subsection (2), ‘determination’ means a determination of the Remuneration Tribunal.

Leave of absence

“11. The Minister may grant leave of absence to the Chief Education Officer upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Resignation

“12. The Chief Education Officer may resign his or her office by writing signed by the Officer and delivered to the Minister.

Termination of appointment

“13. (1) The Minister may terminate the appointment of the Chief Education Officer by reason of misbehaviour or physical or mental incapacity.

“(2) The Minister shall terminate the appointment of the Chief Education Officer if the Officer—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b) is absent from duty, except on leave granted by the Minister, for 14 consecutive days or for 28 days in any period of 12 months; or
- (c) except with the approval of the Minister, engages in paid employment otherwise than for the purposes of this Ordinance.

Acting appointment

“14. (1) The Minister may appoint a person to act as the Authority—

- (a) during a vacancy in the office of the Authority, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Chief Education Officer is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of the office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

“(2) The appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

“(3) Where a person is appointed to act as the Authority in accordance with paragraph (1) (b) and the office of the Authority becomes vacant while that person is so acting, then, subject to subsection (2), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

“(4) The Minister may—

- (a) determine the terms and conditions of appointment (other than terms and conditions relating to superannuation) of a person appointed under this section; and
- (b) terminate such an appointment at any time.

“(5) The appointment of a person to act as the Authority ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Minister.

“(6) While a person is acting as the Authority, the person has, and may exercise, all the powers and shall perform all the functions, of the Authority.

“(7) Anything done by or in relation to a person purporting to act under this section is not invalid on the ground that—

- (a) the occasion for the person’s appointment had not arisen;
- (b) there is a defect or irregularity in connection with the person’s appointment;
- (c) the person’s appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.”.

Chairman of a board

6. Section 45 of the Principal Ordinance is amended by omitting from subsection (3) “the Chairman of”.

Meetings

7. Section 46 of the Principal Ordinance is amended—

- (a) by omitting from subsection (2) “The Chairman of the Authority or the Chief Education Officer” and substituting “The Authority”; and
- (b) by omitting from subsection (11) “the Chairman of”.

Proper accounts to be kept

8. Section 48B of the Principal Ordinance is amended—

- (a) by omitting from subsection (2) “the Chief Education Officer” and substituting “the Authority”; and
- (b) by omitting from subsection (2) “him” and substituting “it”.

9. Sections 51 and 52 of the Principal Ordinance are repealed and the following section is substituted:

Committees

“51. The Authority may appoint a committee of not more than 5 members—

- (a) to furnish advice to the Authority with respect to such matters relating to the functions of the Authority as the Authority refers to the committee; or

- (b) to assist the Authority in the performance of such of its functions as the Authority requires.”.

Rights of Chief Education Officer

10. Section 54 of the Principal Ordinance is amended—

- (a) by omitting all words from and including “Where” to and including “Chief Education Officer” and substituting “Where the Chief Education Officer was, immediately before his or her appointment”; and
- (b) by omitting “he retains his” and substituting “the Officer retains his or her”.

11. Section 55 of the Principal Ordinance is repealed and the following section substituted:

Protection of persons

“55. A person who is, or has been—

- (a) the Chief Education Officer;
- (b) a person appointed to act as the Authority; or
- (c) a member of the board of a school;

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

PART III—TRANSITIONAL

Interpretation

12. In this Part—

“commencement date” means the date of commencement of this Ordinance;

“former Authority” means the body corporate by the name of the Australian Capital Territory Schools Authority as constituted immediately before the commencement date;

“new Authority” means the corporation sole by the name of the Australian Capital Territory Schools Authority as constituted on the commencement date.

Transfer of assets, liabilities etc.

13. On the commencement date—

- (a) any rights, property or assets that, immediately before that date, were vested in the former Authority are, by force of this section, vested in the new Authority; and
- (b) the new Authority becomes, by force of this section, liable to pay or discharge any debts, liabilities or obligations of the former Authority that existed immediately before that date.

Contracts, agreements and arrangements

14. A contract, agreement or arrangement entered into by the former Authority as a party and in force immediately before the commencement date continues in force and has effect, on and after that date, as if—

- (a) the new Authority were substituted for the former Authority as a party to the contract, agreement or arrangement; and
- (b) any reference in the contract, agreement or arrangement to the former Authority were (except in relation to matters that occurred before that date) a reference to the new Authority.

References in instruments

15. A reference in any instrument made, granted or issued before the commencement date and in force immediately before that date to the former Authority has effect on and after that date as if that reference were (except in relation to matters that occurred before that date) a reference to the new Authority.

Acts etc.

16. An act or thing done by or on behalf of the former Authority before the commencement date shall, for the purposes of the operation after the commencement date of the Principal Ordinance as amended by this Ordinance, be deemed to have been done by or on behalf of the new Authority.

Legal proceedings

17. (1) Where, before the commencement date, a cause of action by or against the former Authority had arisen but proceedings in respect of that cause of action had not been instituted before that date, proceedings in respect of that cause of action may be instituted by or against the new Authority.

(2) Where, before the commencement date, proceedings by or against the former Authority had been instituted in a court, tribunal, commission or other body but those proceedings had not been completed before that date, the new Authority is, by force of this section, substituted for the former Authority as a party to the proceedings and those proceedings may be continued by or against the new Authority.

(3) In proceedings instituted or continued under this section, each party to the proceedings has the same rights, and is subject to the same obligations, as if the new Authority were the former Authority and the proceedings had been instituted or continued by or against the former Authority.

Authority

18. The person who, immediately before the commencement date, was the Chief Education Officer appointed under section 19 of the Principal Ordinance shall be deemed to have been appointed, on the commencement date, by the Minister under subsection 8 (1) of the Principal Ordinance as amended by this Ordinance to be the new Authority and holds office, subject to the Principal Ordinance as so amended, for the remainder of the period for which the person was so appointed.

Staff

19. A person who, immediately before the commencement date, was a member of the staff of the former Authority shall, on and from the commencement date, be deemed to be a member of the staff of the new Authority.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 22 December 1987.
2. No. 59, 1976 as amended by No. 46, 1978; No. 11, 1979; No. 63, 1983; No. 28, 1985.