



Australian Capital Territory

# **Education Act 2004**

**A2004-17**

**Republication No 14**

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Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Education Act 2004* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 July 2011. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 July 2011.

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

### Kinds of republications

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

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

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

### Editorial changes

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

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

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

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Education Act 2004

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Australian Capital Territory

# Education Act 2004

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

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## Chapter 1      General

### Part 1.1      Preliminary

#### 1      Name of Act

This Act is the *Education Act 2004*.

#### 3      Dictionary

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

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

For example, the signpost definition ‘*carer*—see section 6.’ means that the term ‘carer’ is defined in that section.

*Note 2*    A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

#### 4      Notes

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

*Note*      See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

## 5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## 6 Meaning of *parent* and *carer*

- (1) In this Act, a *parent* includes a carer.
- (2) In this Act, a *parent* is a person having parental responsibility for the child under the *Children and Young People Act 2008*, division 1.3.2.
- (3) In this Act, a *carer* is a person who is an out-of-home carer under the *Children and Young People Act 2008*, section 508 (Who is an *out-of-home carer?*).

## Part 1.2                      General principles and objects

### 7                      General principles of Act

- (1) Everyone involved in the administration of this Act, or in the school or home education of children in the ACT, is to apply the principle that every child has a right to receive a high-quality education.
- (2) Without limiting subsection (1), a high-quality education is based on the following principles:
  - (a) school education and home education provide a foundation for a democratic society;
  - (b) school education and home education should—
    - (i) aim to develop every child’s potential and maximise educational achievements; and
    - (ii) promote children’s enthusiasm for lifelong learning and optimism for the future; and
    - (iii) encourage parents to take part in the education of their children, and recognise their right to choose a suitable educational environment; and
    - (iv) promote respect for and tolerance of others; and
    - (v) recognise the social, religious, physical, intellectual and emotional needs of all students; and
    - (vi) aim over time to improve the learning outcomes of students so that the outcomes are free from disadvantage because of economic, social, cultural or other causes; and
    - (vii) encourage all students to complete their senior secondary education; and
    - (viii) provide access to a broad education; and
    - (ix) recognise the needs of Indigenous students;



- (c) innovation, diversity and opportunity within and among schools should be encouraged;
  - (d) effective quality assurance mechanisms should be applied to school education;
  - (e) government funding should be directed to students through their schools or school system;
  - (f) the partnership between the home, community and educational providers should be recognised;
  - (g) school communities should be given information about the operation of their schools.
- (3) Everyone involved in the administration of this Act, or in the school education of children in the ACT, is to apply the principle that school education—
- (a) recognises the individual needs of children with disabilities; and
  - (b) should make appropriate provision for those needs, unless it would impose unjustifiable hardship on the provider of the school education.
- (4) Corporal punishment is not allowed in ACT schools.

## **8 Main objects of Act**

The main objects of this Act are—

- (a) to state the responsibilities of parents and the government in relation to education and the principles and values on which government and non-government school education and home education are based; and
- (b) to promote compulsory education by ensuring that—
  - (i) children complete year 10; and

- (ii) children participate in education until they are 17 years old or complete year 12 (whichever happens first), with the opportunity to participate in training or employment after year 10; and
- (c) to state the circumstances in which school attendance is not required, including providing for suspension and exclusion from school; and
- (d) to provide for the operation and governance of government schools; and
- (e) to provide for the registration of non-government schools and home education.

## Chapter 2 Compulsory education

### Part 2.1 Preliminary—ch 2

#### 9 Meaning of *compulsory education age*—ch 2

For this chapter, a child is of *compulsory education age* if the child is at least 6 years old and under the age that the first of the following happens:

- (a) the child is 17 years old;
- (b) the child completes year 12.

#### 9A Meaning of *education course* and *education provider*—Act

- (1) For this Act, each of the courses mentioned in table 9A, column 2 is an *education course*, and the entity mentioned in column 3 for the course is the provider (the *education provider*) of the course.
- (2) Also, the director-general may approve another course as an *education course* and an entity as the provider (the *education provider*) of the course.
- (3) An approval is a notifiable instrument.

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

Table 9A

column 1 item	column 2 education course	column 3 education provider
1	a course of study	a school
2	a course of study	a school under a law of a State or another Territory

column 1 item	column 2 education course	column 3 education provider
3	a course of study leading to the completion of year 10 or year 12	a registered training organisation under the <i>Training and Tertiary Education Act 2003</i> or a registered training organisation (however described) under a law of a State or another Territory
4	a vocational education and training course under the <i>Training and Tertiary Education Act 2003</i>	a registered training organisation under the <i>Training and Tertiary Education Act 2003</i>
5	a vocational education and training course (however described) under a law of a State or another Territory	a registered training organisation (however described) under a law of a State or another Territory
6	a higher education course under the <i>Training and Tertiary Education Act 2003</i>	a higher education provider under the <i>Training and Tertiary Education Act 2003</i>
7	a higher education course under the <i>Training and Tertiary Education Act 2003</i>	a university under the <i>Training and Tertiary Education Act 2003</i>

**9B Meaning of *completes year 10*—Act**

- (1) For this Act, a child *completes year 10* at an education provider if the child—
- (a) is awarded or has completed the requirements for being awarded a year 10 certificate (however described) by the provider; or
  - (b) is given or has completed the requirements for being given a high school record (however described) in relation to year 10 by the provider; or

(c) is awarded a certificate (however described) approved by the director-general.

(2) An approval is a notifiable instrument.

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

(3) Also, for this Act, a child *completes year 10* if—

(a) the child is awarded or has completed the requirements for being awarded a year 10 certificate (however described) in a State or another Territory under a law of the State or Territory; or

(b) the director-general is satisfied on reasonable grounds that the child has completed year 10 or its equivalent in the ACT, a State, another Territory or a foreign country.

(4) A child mentioned in subsection (3) (b) may be given a certificate or record by the director-general.

*Note* If a form is approved under s 154 for s (4), the form must be used.

## **9C Meaning of *completes year 12*—Act**

(1) For this Act, a child *completes year 12* if the child is awarded or has completed the requirements for being awarded—

(a) a year 12 certificate (however described) by the Board of Senior Secondary Studies under the *Board of Senior Secondary Studies Act 1997*; or

- (b) a certificate equivalent to a year 12 certificate that shows completion of a higher education pre-entry course; or

**Examples**

- 1 the Certificate of General Education for Adults (at Certificate II or above)
- 2 the International Baccalaureate

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (c) a certificate equivalent to a year 12 certificate issued under the AQF; or

**Example**

the Australian Qualification Framework (AQF) Certificate II

- (d) a certificate (however described) approved by the director-general.

- (2) An approval is a notifiable instrument.

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

- (3) Also, for this Act, a child ***completes year 12*** if—

- (a) the child is awarded or has completed the requirements for being awarded a year 12 certificate (however described) in a State or another Territory under a law of the State or Territory; or
- (b) the director-general is satisfied on reasonable grounds that the child has completed year 12 or its equivalent in the ACT, a State, another Territory or a foreign country.

- (4) A child mentioned in subsection (3) (b) may be given a certificate or record by the director-general.

*Note* If a form is approved under s 154 for s (4), the form must be used.

- (5) In this section:

*AQF*—see the *Training and Tertiary Education Act 2003*, dictionary.

**9D Guidelines—certain director-general functions**

- (1) The director-general may make guidelines about the exercise of the director-general's functions under the following provisions:
- section 10 (6) (c) (Child of compulsory education age—enrolment and registration requirement);
  - section 10A (3) (Child of compulsory education age—enrolment and registration requirement);
  - section 10D (4) (Child of compulsory education age—participation requirement);
  - section 14D (3) (Approval statement—compliance requirement).
- (2) A guideline is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (3) The director-general must comply with any guidelines.

## **Part 2.2 Compulsory education requirements**

### **Division 2.2.1 Enrolment, registration and attendance requirements**

#### **10 Child of compulsory education age—enrolment and registration requirement**

- (1) This section applies if a child—
  - (a) lives in the ACT; and
  - (b) is of compulsory education age.
- (2) The child's parents must do either or both of the following:
  - (a) enrol the child at an education provider for the purpose of the provider's education course not later than 14 days after the day the course starts;
  - (b) apply to register the child for home education not later than 10 school term days after the first of the following happens:
    - (i) the start of the school year;
    - (ii) the day the child begins to live in the ACT.
- (3) Also, the child's parents must enrol the child under subsection (2) (a) not later than 10 school term days after—
  - (a) the day the child turns 6 years old; or
  - (b) for a child who has not completed year 10—the day the child begins to live in the ACT.



- (4) If the child's enrolment at an education provider is cancelled by the child's parents, the parents must do either or both of the following within 14 days after the day the enrolment is cancelled:
- (a) enrol the child at another education provider for the purpose of the provider's education course;
  - (b) apply to register the child for home education.

*Note* If a form is approved under s 154 for this provision, the form must be used.

- (5) If the child's registration for home education is cancelled under section 135 (Cancellation of registration for home education), the parents must enrol the child at an education provider for the purpose of the provider's education course not later than 14 days after the day the cancellation takes effect.

*Note* See s 135 (6) for when the cancellation of registration for home education takes effect.

- (6) This section does not apply if—
- (a) an exemption certificate is in force for the child; or
  - (b) the child is participating in a training or employment alternative in accordance with part 2.4 (After year 10—training and employment alternatives); or
  - (c) the child's parents have an excuse for not complying with this section that the director-general is satisfied is a reasonable excuse.

*Note 1* The director-general must comply with any guidelines about the exercise of the director-general's functions under s (6) (c) (see s 9D).

*Note 2* For offences in relation to this requirement, see pt 2.6 (Offences—parents).

## **10A Child of compulsory education age—school attendance requirement**

- (1) This section applies if a child—

- (a) lives in the ACT; and
  - (b) is of compulsory education age; and
  - (c) is enrolled at a school.
- (2) The child's parents must ensure that the child—
- (a) attends the school on every day, and during the times on every day, when the school is open for attendance; and
  - (b) attends every activity of the school (including attendance at an approved educational course) that the school requires the child to attend.
- (3) This section does not apply if the child's parents have an excuse for not complying with this section that the director-general is satisfied is a reasonable excuse.

*Note 1* The director-general must comply with any guidelines about the exercise of the director-general's functions under s (3) (see s 9D).

*Note 2* For offences in relation to this requirement, see pt 2.6 (Offences—parents).

## **Division 2.2.2 Participation requirement**

### **10B Meaning of *participates* in education course—div 2.2.2**

For this division, a child *participates* in an education course if the child complies with—

- (a) the provider's requirements about physically attending, at particular times, the provider's premises or another place; or
- (b) for an education course that is completed by distance education (however described)—the provider's requirements for distance education.

#### **Examples—par (b)**

- 1 complete and return the assigned work for the course

- 2 communicate with or contact the provider for the purpose of participating in the course
- 3 attend the provider for 1 week twice a year

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

### **10C Meaning of *full-time participation* in education course— div 2.2.2**

- (1) For this division, *full-time participation* in an education course means participation in the course—
  - (a) at a level that is full-time under the requirements of the course;  
or
  - (b) for at least 25 hours each week.
- (2) Also, for this division, *full-time participation* in an education course includes—
  - (a) part-time participation in 2 or more education courses to an extent that is at least equivalent to full-time participation in 1 education course; and
  - (b) participation in any combination of the following that is equivalent to full-time participation in 1 education course:
    - (i) an education course;
    - (ii) a training alternative;
    - (iii) an employment alternative.

*Note* A child needs the director-general's approval to participate in a training or employment alternative (see pt 2.4 (After year 10—training and employment alternatives)).

### **10D Child of compulsory education age—participation requirement**

- (1) This section applies if a child—

- (a) lives in the ACT; and
  - (b) is of compulsory education age; and
  - (c) is enrolled at an education provider other than a school for the purpose of the provider's education course.
- (2) The child's parents must ensure that the child participates in the education course.
- (3) Also, the child's participation must be—
- (a) full-time participation (the *full-time participation requirement*); or
  - (b) if an exemption certificate is in force for the child for the course—participation in accordance with the certificate.
- (4) This section does not apply if the child's parents have an excuse for not complying with this section that the director-general is satisfied is a reasonable excuse.

*Note 1* The director-general must comply with any guidelines about the exercise of the director-general's functions under s (4) (see s 9D).

*Note 2* For offences in relation to this requirement, see pt 2.6 (Offences—parents).

## **11 Participation requirement—absence**

A child's participation in an education course is taken for this Act to continue during an absence that is—

- (a) allowed under the requirements of the course or by the provider of the course; or

- (b) required under a territory law or a law of the Commonwealth, a State or another Territory.

**Example—par (b)**

Will is absent from an education provider because a public health direction under the *Public Health Act 1997* requires that he be confined to home for 2 weeks.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**11A Participation requirement—suspension**

- (1) This section applies if a child participating in an education course stops attending the provider because the child has been suspended from attending the provider.
- (2) The child's participation in the course is taken for this Act to continue during the suspension period.

**11B Participation requirement—exclusion**

- (1) This section applies if a child participating in an education course stops attending the provider because the child has been excluded from attending the provider.
- (2) The child's participation in the course is taken for this Act to continue—
  - (a) at the same level as before the exclusion; and
  - (b) for the time reasonably required for the child to resume participation in an education course or apply for approval to participate in a training or employment alternative under part 2.4 (After year 10—training and employment alternatives).

## Division 2.2.3 Information requirement

### 11C Giving information notice

- (1) This section applies if a child—
  - (a) lives in the ACT; and
  - (b) is at least 6 years old but under 17 years old.
- (2) The director-general may give a written notice (an *information notice*) to the child's parents if the director-general believes on reasonable grounds that—
  - (a) the child is not enrolled at an education provider; or
  - (b) the child is not registered for home education; or
  - (c) if the child is enrolled at a school—the child is not attending the school; or
  - (d) if the child is enrolled at an education provider other than a school for the purpose of the provider's education course—the child is not participating in the course or the child is contravening section 10D (3) (Child of compulsory education age—participation requirement); or
  - (e) the child is not participating in a training or employment alternative in accordance with part 2.4 (After year 10—training and employment alternatives).

*Note* For how documents may be served, see the Legislation Act, pt 19.5.

### 11D Contents of information notice

- (1) An information notice in relation to a child must—
  - (a) state that it is an information notice under this Act; and
  - (b) state the information sought; and

- (c) state what the child's parents need to do to comply with the notice; and
  - (d) state the period for complying with the notice; and
  - (e) contain a statement to the effect that failure to comply with the notice is an offence.
- (2) The information notice may include any other information the director-general considers appropriate.

### **11E Extension of time for compliance with information notice**

- (1) This section applies if a child's parents have been given an information notice.
- (2) The director-general may, by written notice given to the child's parents, extend the compliance period for the information notice on the director-general's own initiative or if asked by the parents.
- (3) However, the director-general may extend the compliance period only if the period has not ended.
- (4) In this section:

*compliance period* means the period stated in the information notice under section 11D (1) (d), and includes the period as extended under this section.

### **11F Revocation of information notice on compliance**

If the director-general is satisfied on reasonable grounds that an information notice given to a child's parents has been complied with, the director-general must revoke the notice by written notice given to the parents.

## Part 2.3 Exemption certificates

### 11G Meaning of *full-time participation requirement*—pt 2.3

In this part:

*full-time participation requirement*—see section 10D (3).

### 11H Exemption certificate—application

(1) A child or the child's parents may apply to the director-general for a certificate (an *exemption certificate*) exempting the child from—

(a) the requirement to be enrolled at an education provider or registered for home education; or

*Note* See s 10 (Child of compulsory education age—enrolment and registration requirement).

(b) the full-time participation requirement.

*Note* See s 10D (Child of compulsory education age—participation requirement).

(2) Application may be made for either or both of the following:

(a) exempting the child until the child is 17 years old or for a shorter period;

(b) exempting the child from the full-time participation requirement.

(3) An application made by a child must contain the signed consent of the child's parents.

(4) However, subsection (3) does not apply if the director-general is satisfied on reasonable grounds that it is not appropriate to require the signed consent.

*Note* If a form is approved under s 154 for this provision, the form must be used.



**12 Exemption certificate—requirement for further information**

- (1) The director-general may give an applicant mentioned in section 11H (1) a written notice requiring the applicant to give the director-general stated further information or documents that the director-general reasonably needs to decide the application.
- (2) If the applicant does not comply with the requirement, the director-general may refuse to consider the application further.

**12A Exemption certificate—issue**

- (1) The director-general may—
  - (a) issue an exemption certificate for a child if the director-general is satisfied on reasonable grounds that it is in the child's best interests to issue the certificate; or
  - (b) refuse to issue an exemption certificate for a child.
- (2) Without limiting subsection (1) (a), in deciding whether it is in a child's best interests to exempt the child, the director-general may consider the following:
  - (a) the child's health;
  - (b) the child's education;
  - (c) the child's sense of racial, ethnic, religious or cultural identity;
  - (d) the child's development;

- (e) whether the exemption would benefit the child.

**Example—par (e)**

Felicity's education alternative finishes shortly before she turns 17. The director-general is satisfied that exempting Felicity from participating in another education alternative until she turns 17 benefits her, because it means that she is not compelled to participate in another education alternative for a short time just to comply with the participation requirement.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) An exemption certificate for a child may be issued for either or both of the following:
- (a) exempting the child until the child is 17 years old or for a shorter period;
  - (b) exempting the child from the full-time participation requirement.

**12B Exemption certificate—form**

An exemption certificate issued for a child must—

- (a) state the day it is issued; and
- (b) state the child's name; and
- (c) state the period for which it is in force; and
- (d) for an exemption from the full-time participation requirement—state the exemption and the extent to which the child must participate; and
- (e) state any condition to which it is subject; and
- (f) contain any other particulars prescribed by regulation.

**12C Exemption certificate—conditions**

The director-general may issue an exemption certificate subject to any condition that the director-general believes on reasonable grounds is appropriate.

**12D Exemption certificate—duration**

An exemption certificate may be issued for a child until—

- (a) the end of the period stated in the certificate; or
- (b) the ground for the issue of the certificate no longer applies in relation to the child.

**13 Exemption certificate—revocation**

The director-general may revoke an exemption certificate issued for a child if—

- (a) the certificate is issued in error; or
- (b) the ground for the issue of the certificate no longer applies in relation to the child; or
- (c) a condition of the certificate has been contravened.

## Part 2.4 After year 10—training and employment alternatives

### Division 2.4.1 Definitions—pt 2.4

#### 13A Meaning of *training alternative* and *training alternative provider*—Act

- (1) For this Act, each training mentioned in table 13A, column 2 is a *training alternative*, and the entity mentioned in column 3 for the training alternative is the provider (the *training alternative provider*) of the training alternative.
- (2) Also, the director-general may approve other training as a *training alternative*, and an entity as the provider (the *training alternative provider*) of the training alternative.
- (3) An approval is a notifiable instrument.

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

Table 13A

column 1 item	column 2 training alternative	column 3 training alternative provider
1	work-related training under the <i>Training and Tertiary Education Act 2003</i>	employer with whom child has approved training contract under the <i>Training and Tertiary Education Act 2003</i> in relation to the work-related training
2	work-related training (however described) under a law of a State or another Territory	provider (however described) under a law of the State or other Territory

**13B Meaning of *employment alternative*—Act**

For this Act, each of the following is an *employment alternative*:

- (a) performance of paid work under a contract of service (whether written or unwritten);
- (b) performance of paid work under a contract for services (whether written or unwritten).

*Note* The *Children and Young People Act 2008*, ch 21 deals with the employment of children and young people.

**13C Meaning of *full-time participation* in training or employment alternative—pt 2.4**

- (1) For this part, *full-time participation* in a training or employment alternative means participation in the alternative—
  - (a) at a level that is full-time under the requirements of the alternative; or
  - (b) for at least 25 hours each week.
- (2) Also, for this part, *full-time participation* in a training or employment alternative includes—
  - (a) part-time participation in 2 or more of a particular alternative to an extent that is at least equivalent to full-time participation in 1 of the particular alternatives; and

- (b) participation in any combination of training and employment alternatives to an extent that is at least equivalent to full-time participation in 1 training or employment alternative.

**Example—s (2) (a)**

part-time participation in 2 or more training alternatives to an extent that is at least equivalent to full-time participation in 1 training alternative

**Example—s (2) (b)**

part-time participation in a training alternative and part-time participation in an employment alternative for a combined total of at least 25 hours each week

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

## **Division 2.4.2 Approval to participate in training and employment alternatives**

### **13D Approval statement—application**

- (1) A child or the child's parents may apply to the director-general for a statement (an *approval statement*) approving the child's participation in a training or employment alternative during the child's post-year 10 period.
- (2) Application may be made for either or both of the following:
  - (a) approving the child's participation in a training or employment alternative for all or part of the child's post-year 10 period;
  - (b) approving that the child's participation in a training or employment alternative be other than full-time participation.
- (3) An application made by a child must contain the signed consent of the child's parents.
- (4) However, subsection (3) does not apply if the director-general is satisfied on reasonable grounds that it is not appropriate to require the signed consent.

- (5) For this section, a child's *post-year 10 period* starts when the child completes year 10 and ends when the first of the following happens:
- (a) the child completes year 12;
  - (b) the child is 17 years old.

*Note* If a form is approved under s 154 for this provision, the form must be used.

#### **14 Approval statement—requirement for further information**

- (1) The director-general may give an applicant mentioned in section 13D (1) a written notice requiring the applicant to give the director-general stated further information or documents that the director-general reasonably needs to decide the application.
- (2) If the applicant does not comply with the requirement, the director-general may refuse to consider the application further.

#### **14A Approval statement—issue**

- (1) The director-general may—
  - (a) issue an approval statement for a child if the director-general is satisfied on reasonable grounds that it is in the child's best interests to issue the statement; or
  - (b) refuse to issue an approval statement for a child.
- (2) Without limiting subsection (1) (a), in deciding whether it is in a child's best interests to issue an approval statement for the child, the director-general may consider the following:
  - (a) the child's health;
  - (b) the child's education;
  - (c) the child's sense of racial, ethnic, religious or cultural identity;
  - (d) the child's development;

- (e) whether the training or employment alternative for which the statement is sought would benefit the child.

**Example—par (e)**

Thomas is 15 years old, has completed year 10 and wants to be a chef. Thomas has been offered an apprenticeship with a chef. The director-general decides that it is in Thomas's best interests to issue an approval statement for him, because it means that Thomas can pursue the career path that he wants to pursue.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) An approval statement may be issued for a child for either or both of the following:
- (a) approving the child's participation in a training or employment alternative for all or part of the child's post-year 10 period;
  - (b) approving that the child's participation in a training or employment alternative be other than full-time participation.
- (4) In this section:

*post-year 10 period*—see section 13D (5).

**14B Approval statement—form**

An approval statement issued for a child must—

- (a) state the day it is issued; and
- (b) state the child's name; and
- (c) state the period for which it is in force; and
- (d) if the child's approved participation in a training or employment alternative is other than full-time participation—state the approval and the extent to which the child is required to participate in the alternative; and



- (e) state any condition to which it is subject; and
- (f) contain any other particulars prescribed by regulation.

#### **14C Approval statement—conditions**

- (1) An approval statement issued for a child is subject to a condition that—
  - (a) the child's participation is full-time participation unless otherwise stated in the statement; or
  - (b) if the statement contains a statement mentioned in section 14B (d)—the child must comply with the stated participation requirement.
- (2) An approval statement that approves a child's participation in a training alternative is also subject to each of the following conditions:
  - (a) that the child is enrolled with the training alternative provider;
  - (b) that the child complies with the training alternative provider's attendance requirements.
- (3) The training alternative provider's attendance requirements are the requirements about physically attending, at particular times, the provider's premises or another place.

- (4) The director-general may issue an approval statement subject to any condition that the director-general believes on reasonable grounds is appropriate.

**Example—s (4)**

Farouk wants to participate part-time in an education course and part-time in an employment alternative (he wants to work at least 10 hours each week). Under this Act, an approval statement is not required for an education course, but is for an employment alternative. The director-general issues an approval statement for the employment alternative that states that Farouk's approved participation in that employment is part-time, and that he must participate in that employment for at least 10 hours each week. The director-general also puts a condition on the approval statement that Farouk must participate in the education course for at least 15 hours each week.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**14D Approval statement—compliance requirement**

- (1) This section applies if an approval statement is issued for a child.
- (2) The child's parents must ensure that the child complies with the statement, including any conditions of the statement.
- (3) This section does not apply if the child's parents have an excuse for not complying with this section that the director-general is satisfied is a reasonable excuse.

*Note 1* The director-general must comply with any guidelines about the exercise of the director-general's functions under s (3) (see s 9D).

*Note 2* For offences in relation to this requirement, see pt 2.6 (Offences—parents).

**15 Approval statement—duration**

An approval statement may be issued for a child until—

- (a) the end of the period stated in the statement; or
- (b) the ground for the issue of the statement no longer applies in relation to the child.

**15A Approval statement—revocation**

The director-general may revoke an approval statement issued for a child if—

- (a) the statement is issued in error; or
- (b) the ground for the issue of the statement no longer applies in relation to the child; or
- (c) a condition of the statement has been contravened.

**15B Return to education while approval statement in force**

- (1) This section applies if—
  - (a) an approval statement is in force for a child; and
  - (b) the child is enrolled at an education provider for the purpose of the provider's education course.
- (2) The child's parents must tell the director-general in writing about the enrolment.

**Division 2.4.3 Training and employment alternatives—deemed participation**

**15C Training and employment alternatives—absence**

A child's participation in a training or employment alternative is taken for this Act to continue during an absence that is—

- (a) allowed under the requirements of the alternative; or

- (b) required under a territory law or a law of the Commonwealth, a State or another Territory.

**Example—par (b)**

Sarah is absent from a training alternative provider because a personal protection order prohibits her from attending the provider.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**15D Training alternative—suspension**

- (1) This section applies if a child participating in a training alternative stops attending the training alternative provider because the child has been suspended from attending the provider.
- (2) The child's participation in the alternative is taken for this Act to continue during the suspension period.

**16 Training alternative—exclusion**

- (1) This section applies if a child participating in a training alternative stops attending the training alternative provider because the child has been excluded from attending the provider.
- (2) The child's participation in the training alternative is taken for this Act to continue—
  - (a) at the same level as before the exclusion; and
  - (b) for the time reasonably required for the child to—
    - (i) enrol in an education course; or
    - (ii) apply for approval to participate in another training alternative or an employment alternative.

**16A Employment alternative—termination**

- (1) This section applies if a child participating in an employment alternative stops working because the child's employment has been ended other than by the child.
- (2) The child's participation in the employment alternative is taken for this Act to continue—
  - (a) at the same level as before the termination; and
  - (b) for the time reasonably required for the child to—
    - (i) enrol in an education course; or
    - (ii) apply for approval to participate in another employment alternative or a training alternative.

## Part 2.5                      Compliance notices

### 16B              Giving compliance notice

The director-general may give a notice (a *compliance notice*) to a child's parents if the director-general believes on reasonable grounds that the parents have contravened or are contravening—

- (a) section 10 (Child of compulsory education age—enrolment and registration requirement); or
- (b) section 10A (Child of compulsory education age—school attendance requirement); or
- (c) section 10D (Child of compulsory education age—participation requirement); or
- (d) section 14D (Approval statement—compliance requirement).

*Note*      For how documents may be served, see the Legislation Act, pt 19.5.

### 16C              Contents of compliance notice

- (1) A compliance notice in relation to a child must—
  - (a) state that it is a compliance notice under this Act; and
  - (b) include a brief description of the contravention of this Act in relation to which the notice is given; and
  - (c) state what the child's parents need to do to comply with the notice; and
  - (d) state the period for complying with the notice; and
  - (e) contain a statement to the effect that failure to comply with the notice is an offence.
- (2) The compliance notice may include any other information the director-general considers appropriate.

**16D Extension of time for compliance with compliance notice**

- (1) This section applies if a child's parents have been given a compliance notice.
- (2) The director-general may, by written notice given to the child's parents, extend the compliance period for the compliance notice on the director-general's own initiative or if asked by the parents.
- (3) However, the director-general may extend the compliance period only if the period has not ended.
- (4) In this section:

*compliance period* means the period stated in the compliance notice under section 16C (1) (d), and includes the period as extended under this section.

**17 Revocation of compliance notice on compliance**

If the director-general is satisfied on reasonable grounds that a compliance notice given to a child's parents has been complied with, the director-general must revoke the notice by written notice given to the parents.

## Part 2.6 Offences—parents

### 17A Contravention of information and compliance notices

- (1) A child's parents commit an offence if—
  - (a) an information notice is given to the parents; and
  - (b) the parents fail to comply with the notice.Maximum penalty: 5 penalty units.
- (2) A child's parents commit an offence if—
  - (a) a compliance notice is given to the parents; and
  - (b) the parents fail to comply with the notice.Maximum penalty: 10 penalty units.
- (3) An offence against this section is a strict liability offence.
- (4) This section does not apply if the child's parents have a reasonable excuse for failing to comply with the notice.
- (5) Without limiting subsection (4), it is a reasonable excuse for a parent of the child (the *stated parent*) that—
  - (a) the child lives with another parent and the stated parent believes on reasonable grounds that the other parent is complying with the notice; or
  - (b) the stated parent is not reasonably able to control the child's behaviour to the extent necessary to comply with the notice.



## **Chapter 3            Government schools**

### **Part 3.1            General**

#### **18            Principles on which ch 3 based**

The following are the principles on which this chapter is based:

- (a) the ACT government school system is based on the principles of equity, universality and nondiscrimination;
- (b) government schools are free and open to everyone;
- (c) government schools offer a broad and balanced secular education to all students from preschool to year 12 by providing access to a broad curriculum;
- (d) the government school system is committed to—
  - (i) providing reasonable access to public education for all students in the ACT;
  - (ii) maximising student educational achievements and opportunities; and
  - (iii) developing emotional, physical and intellectual wellbeing of all students; and
  - (iv) responsiveness to community needs; and
  - (v) innovation, diversity and choice; and
  - (vi) preparing students to be independent and effective local and global citizens; and
  - (vii) teacher, student and parent participation in all aspects of school education; and
  - (viii) combining central policies and guidelines with school level policies and decision-making; and

- (ix) making information available about, and being accountable for, the operation of government schools;
- (e) government school funding is provided to schools in recognition of the principles mentioned in paragraphs (a) to (d) and the diversity of students' needs.

## Part 3.2                      Establishment and operation of government schools

### 20                      Establishing government schools etc

- (1) The Minister may establish government schools and preschools (*government schools*).
- (2) The Minister may decide the kinds of government schools to be established and the educational level or levels for the schools.
- (3) The Minister may establish school-related educational institutions and services (*school-related institutions*).

#### **Example of school-related institution**

Murrumbidgee Education and Training Centre

*Note*      An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) The Minister may name, and change the name of, a government school or school-related institution.
- (5) Before making a decision to close or amalgamate a government school, the Minister must take the following steps:
  - (a) tell the school community that the Minister is considering closing or amalgamating the school and the reasons why;
  - (b) obtain a report from the committee established under section 20A to use in consultation with the school community under paragraph (c) that—
    - (i) comprehensively assesses the impacts of closing or amalgamating the school on the school community; and  
*Note*      For what impacts must be assessed, see s 20B.
    - (ii) identifies alternatives to closing or amalgamating the school;

- (c) consult with the school community for at least 6 months on the educational, economic, environmental and social impacts of, and identifying alternatives to, closing or amalgamating the school;

*Note* For how the Minister must undertake consultation, see s 20A.

- (d) publish in a daily newspaper—
- (i) notice of a proposal to close or amalgamate the school; and
  - (ii) details of where a copy of the report mentioned in paragraph (b) can be obtained;

**Example**

a website operated by the administrative unit responsible for this Act

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (e) give written notice of the matters mentioned in paragraph (d) to—
- (i) the parents and citizens association; and
  - (ii) the chairperson of the school board; and
  - (iii) the principal of the school.
- (6) Not less than 12 months after telling the school community that the Minister is considering closing or amalgamating the school, the Minister must—
- (a) publish notice of the final decision in a daily newspaper; and
  - (b) give written notice of the decision to—
    - (i) a parent of each student at the school; and
    - (ii) each member of the school's parents and citizens association; and

- (iii) each member of the school board; and
    - (iv) the principal and each teacher at the school; and
  - (c) explain to the school community the reasons for the final decision and how the following have been taken into account in making the final decision:
    - (i) the school community's views;
    - (ii) the relevant general principles of this Act under section 7;
    - (iii) the principles on which chapter 3 is based under section 18.
- (7) The consultation must be done in a way that gives effect to the following principles:
  - (a) consultation should focus on access to, and the provision of, quality educational opportunities;
  - (b) consultation should be open, equitable, respectful and transparent;
  - (c) consultation should lead to sustainable decisions by involving effective community engagement;
  - (d) without limiting paragraph (c), consultation should ensure that—
    - (i) relevant information is provided in a timely, equitable and accessible way to enable maximum community participation in debate about the proposal; and
    - (ii) opportunities are provided for feedback about the proposal, especially from families and other people with significant interest in the proposal;
  - (e) consultation should include seeking the views of school boards that are likely to be affected by the proposal.

- (8) The Minister must not close or amalgamate a government school before the later of—
- (a) 6 months after the final decision was made; and
  - (b) the end of the school year in which the final decision was made.

- (9) In this section:

*school community*, in relation to a school that is proposed to be closed or amalgamated, means the members of the community affected by closing or amalgamating the school, including students at the school, students' families, the school board, the principal and teachers at the school and the local community.

**Examples—local community**

residents, local businesses

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**20A Independent committee**

- (1) The Minister must establish an independent committee.
- (2) The functions of the committee are to—
  - (a) prepare the report mentioned in section 20 (5) (b); and
  - (b) undertake the consultation on behalf of the Minister under section 20 (5) (c).
- (3) The committee must consist of 3 people selected after consultation with the appropriate standing committee.
- (4) In this section:

*appropriate standing committee* means—

  - (a) the standing committee of the Legislative Assembly nominated by the Speaker for this section; or

- (b) if no nomination under paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for the consideration of educational issues.

## **20B Impacts of closing or amalgamating schools**

- (1) An assessment under section 20 (5) (b) must include information about the following educational, economic, environmental and social impacts in relation to closing or amalgamating a school:
- (a) the following educational impacts:
    - (i) the range, quality and depth of education programs;
    - (ii) the age and condition of school infrastructure, facilities and resources;
    - (iii) teaching resources and workloads;
    - (iv) social and learning environment for children;
    - (v) extracurricular activities;
    - (vi) parent participation in school;
    - (vii) out-of-hours school programs;
    - (viii) findings of research studies on school size;
    - (ix) student literacy and numeracy outcomes;
    - (x) other educational outcomes;
    - (xi) student outcomes, especially those of parents who have a low income, are Indigenous or from a non-English speaking background or with disabilities;
    - (xii) access to public education;
    - (xiii) school enrolments;
  - (b) the following economic impacts:

- (i) recurrent and capital savings and costs, including one-off savings and costs, of closing or amalgamating the school for the Territory, including—
    - (A) staffing and resources; and
    - (B) school bus transport; and
    - (C) traffic and safety arrangements; and
    - (D) building maintenance and security;
  - (ii) financial impact on parents, including transport and travel time;
  - (iii) financial impact on local business including ongoing viability;
  - (iv) a comparison of the cost, per student, to operate the school with the cost, per student, to operate other ACT government schools and average cost across all ACT government schools;
- (c) the following environmental impacts:
- (i) traffic congestion;
  - (ii) air pollution;
  - (iii) greenhouse gas emissions;
  - (iv) noise levels;
  - (v) open green space adjacent to the school site;
- (d) the following social impacts:
- (i) demographic projections of parents with school-age children, including taking into account expected land releases;



- (ii) implications for parents who have a low income, are Indigenous or from a non-English speaking background or of students with disabilities;
  - (iii) safety of children walking or cycling to school;
  - (iv) neighbourhood community facilities;
  - (v) access to recreational and leisure facilities;
  - (vi) provision of government services;
  - (vii) community support networks;
  - (viii) local employment;
  - (ix) heritage values of school buildings.
- (2) An assessment may include information about any other impacts in relation to closing or amalgamating the school.

## **21 Operation of government schools**

- (1) The director-general is responsible to the Minister for the operation of government schools.
- (2) Government schools are to be publicly owned and operated by the Territory itself.
- (3) The director-general must establish procedures that give priority to the enrolment of children in the government school in their neighbourhood.
- (4) The principal of a government school is responsible for—
  - (a) educational leadership and management of the school; and
  - (b) educational outcomes for students at the school; and
  - (c) providing support to the school board in the carrying out of its functions; and

- (d) contributing to the development and implementation of educational policies and strategies.
- (5) The principal of a government school must make available to parents of students at the school, and to the staff and students of the school, information about the school's educational programs and policies, and the school's operation.

## **22 Investigation of complaints—government schools**

- (1) The director-general must develop and implement a complaints policy for government schools.
- (2) The director-general must, as soon as practicable, investigate any complaint about the administration, management and operation of government schools that, in the director-general's opinion, is not a frivolous or vexatious complaint.
- (3) The director-general must, in an annual report under the *Annual Reports (Government Agencies) Act 2004* for a financial year, include details about the number of complaints investigated by the director-general under this section in that financial year.

## **23 Review of government school system**

The director-general must regularly review, and report to the Minister on, the government school system as a whole.

## **24 Review of operation of government schools**

- (1) The director-general must ensure that—
  - (a) the effectiveness of each government school is reviewed at least once every 5 years; and
  - (b) a report of the review is prepared.
- (2) The director-general must ensure that a review seeks the input of the local community served by the school.
- (3) A review must take into account the views of—

- (a) the parents of students at the school; and
  - (b) the teachers at the school; and
  - (c) the students at the school.
- (4) The director-general must make the report of a review of a school available to—
- (a) the parents of students at the school; and
  - (b) the staff of the school; and
  - (c) the students at the school.

## **25 Reporting to parents—government schools**

- (1) The principal of a government school must set up procedures for giving reports to the parents of a student enrolled at the school about the student's academic progress and social development at the school.
- (2) A report must be given to the student's parents at least twice a year.

## **26 Education to be free**

- (1) Education in government schools is to be free and no fees are chargeable for it.
- (2) Subsection (1) does not apply—
  - (a) in relation to course money paid to a registered provider; or
  - (b) to people who hold a temporary visa under the *Migration Act 1958* (Cwlth), section 30 (2).
- (3) In subsection (2):

**course money**—see the *Education Services for Overseas Students Act 2000* (Cwlth), section 7.

**registered provider**—see the *Education Services for Overseas Students Act 2000* (Cwlth), section 5.

**27 Voluntary financial contributions**

- (1) The school board of a government school may ask the parents of a student enrolled at the school, or anyone else, to make a financial contribution to the school.
- (2) The following principles apply in relation to financial contributions:
  - (a) each contribution is to be voluntary;
  - (b) a student at the school is not to be refused benefits or services because the student's parents do not make a contribution;
  - (c) a student is not to be approached or harassed for contributions;
  - (d) any record of contributions is confidential.
- (3) If the school board asks the parents of a student enrolled at the school to make a financial contribution, the school board must tell the parents about the principles that apply in relation to financial contributions.

**28 Secular education**

- (1) Education in government schools is to be non-sectarian, secular education.
- (2) Secular education in government schools may include the study of different religions as distinct from education in a particular religion.

**29 Religious education**

- (1) If parents of children at a government school ask the principal for their children to receive religious education in a particular religion, the principal must ensure that reasonable time is allowed for their children's religious education in that religion.
- (2) The principal must ensure that the educational program continues for students at the school not attending religious education.

- (3) Religious education must be authorised by the religious body to which the person providing the instruction belongs.
- (4) Students attending a religious education class at a government school must be separated from other students at the school while the class is held.
- (5) In this section:  
*religious education* means education in a particular religion as distinct from the study of different religions.

### **30 Curriculum**

- (1) The director-general must decide the curriculum requirements for students attending government schools (other than in years 11 and 12).
- (2) For subsection (1), the requirements include the framework of the curriculum and the principles on which the curriculum is based.

### **31 Approved educational courses for students at government schools**

- (1) The director-general may approve educational courses for a student enrolled at a government school that may be provided to the student at a place other than the school.
- (2) An approval may be subject to conditions.
- (3) However, the director-general may approve an educational course only if satisfied that—
  - (a) the standard of the course is appropriate; and
  - (b) there are adequate facilities for conducting the course; and
  - (c) the premises where the course is to be conducted comply with any relevant Territory laws about health and safety standards.

## Part 3.3 Attendance at government schools

### 32 Keeping of register of enrolments and attendances for government schools

- (1) The principal of a government school, or the person giving an approved educational course (government), commits an offence if the principal or person fails to keep a register of enrolments and attendances.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

### 33 Keeping records of enrolment and attendances for government schools

- (1) The principal of a government school, or the person giving an approved educational course (government), must ensure that the following information is entered in the register of enrolments and attendances:

- (a) the full name of each student enrolled at the school or course;
- (b) a record of the attendance or nonattendance of the student at the school or course on every day when the school or course is open for attendance.

Maximum penalty: 10 penalty units.

- (2) The principal of a government school, or the person giving an approved educational course (government), commits an offence if—
  - (a) the principal or person makes an entry in the register of enrolments and attendances; and
  - (b) the principal or person is reckless about whether the entry is correct.

Maximum penalty: 10 penalty units.

- (3) An offence against subsection (1) is a strict liability offence.

**34 Inspection of register of enrolment and attendances for government schools**

- (1) The principal of a government school, or the person giving an approved educational course (government), commits an offence if—
- (a) an authorised person (government) asks the principal or person to make the register of enrolments and attendances available to the authorised person; and
  - (b) the principal or person fails to make the register available as asked.

Maximum penalty: 10 penalty units.

- (2) The principal of a government school, or the person giving an approved educational course (government), commits an offence if—
- (a) the director-general or an authorised person (government) asks the principal or the person to give the director-general or authorised person stated information about enrolments or attendances of students at the school or course during a stated period or at a stated time; and
  - (b) the principal or person fails to give the information in accordance with the request.

Maximum penalty: 50 penalty units

- (3) An authorised person (government) may make copies of the register of enrolments and attendances or any part of the register.
- (4) The principal of a government school, or the person giving an approved educational course (government), must take reasonable steps to assist an authorised person (government) in exercising functions under this section.

- (5) An offence against this section is a strict liability offence.

**35 Procedures to encourage school attendance at government schools**

- (1) The principal of a government school must set up procedures—
- (a) to encourage students to attend school regularly; and
  - (b) to help parents to encourage their children to attend school regularly.
- (2) The principal must refer parents and children to support services that encourage children to attend school regularly when the procedures mentioned in subsection (1) are not successful.
- (3) If a student enrolled at a government school has not been attending school regularly, the principal of the school may, by written notice, require the student's parents and the child to meet with an authorised person at a stated place and time.

**36 Suspension, exclusion or transfer of student by director-general**

- (1) This section applies if—
- (a) a student attending a government school—
    - (i) is persistently and wilfully noncompliant; or
    - (ii) threatens to be violent or is violent to another student attending the school, a member of the staff of the school or anyone else involved in the school's operation; or
    - (iii) acts in a way that otherwise threatens the good order of the school or the safety or wellbeing of another student attending the school, a member of staff of the school or anyone else involved in the school's operation; or
    - (iv) displays behaviour that is disruptive to the student's learning or that of other students; and



- (b) the principal of the school is satisfied that action should be taken under this section.
- (2) The principal may recommend to the director-general that the director-general—
- (a) suspend the student from the school for a stated period of not longer than 20 days; or
  - (b) transfer the student to another government school; or
  - (c) exclude the student from all government schools.
- (3) After considering the principal's recommendation, the director-general may—
- (a) give effect to the recommendation; or
  - (b) take any other action mentioned in subsection (2) that the director-general considers appropriate; or
  - (c) suspend the student for not longer than 20 days.
- (4) The director-general may exclude the student only if—
- (a) the student's parents have been given an opportunity to be consulted, and told in writing, about the proposed exclusion of the child and the reasons for it; and
  - (b) the student has been given a reasonable opportunity to attend counselling, undertake relevant educational programs or receive other appropriate assistance; and
  - (c) as far as the student's maturity and capacity for understanding allow, the participation of the student has been sought, and any views of the student considered, in deciding whether to exclude the student; and
  - (d) the student has been given sufficient information about the decision-making process, in a language and way that the student can understand, to allow the student to take part in the process; and

- (e) the student has been offered alternatives for continuing the student's education during the exclusion.
- (5) The director-general may suspend or transfer the student only if—
  - (a) the student's parents have been given an opportunity to be consulted, and told in writing, about the proposed suspension or transfer of the student and the reasons for it; and
  - (b) as far as the student's maturity and capacity for understanding allow, the participation of the student has been sought, and any views of the student considered, in deciding whether to suspend or transfer the student; and
  - (c) the student has been given sufficient information about the decision-making process, in a language and way that the student can understand, to allow the student to take part in the process; and
  - (d) the student has been given a reasonable opportunity to continue the child's education during the suspension.
- (6) Despite subsection (5), the director-general may immediately suspend the student for not longer than 5 days if, in the director-general's opinion, the circumstances are of such urgency or seriousness to require the child's immediate suspension.
- (7) However, before suspending the student under subsection (6), the director-general must comply with the requirements of subsection (5) (a) to (d) to the extent that it is practicable and appropriate to do so.
- (8) To remove any doubt, the director-general may suspend the student under subsection (6) while deciding what other action (if any) should be taken in relation to the student under this section.
- (9) If the student is suspended for 7 or more school days in a school term (whether or not consecutive school days), the director-general must ensure that the student is given a reasonable opportunity to attend appropriate counselling.

- (10) The director-general may delegate the director-general's power to suspend a student from a government school for not longer than 15 days to the principal of the school.

*Note* For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

## Part 3.4 School boards of government schools

### Division 3.4.1 Interpretation

#### 37 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 director-general or otherwise received by the school.

#### Examples of money otherwise received

voluntary financial contributions, other donations and sponsorships

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

*parents and citizens association*, of a school, means

- (a) the entity declared under section 40 (Declaration of parents and citizens associations in certain circumstances) to be the parents and citizens association of the school; or
- (b) if there is no declaration under that section for the school—the parents and citizens association incorporated under the *Associations Incorporation Act 1991* or the *Associations Incorporation Act 1953* (repealed) in relation to 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 April 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 March 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.

*small school* means a school (other than a school-related institution) where fewer than 4 teachers are employed.

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

## **Division 3.4.2      Establishment and membership**

### **38      Establishment of school boards**

A school board is established for each government school.

*Note*      Section 146 (Preschools) deals with opportunities for parents of children at preschools to participate in the conduct of the preschool.

### **39      Functions of school boards etc**

- (1) The functions of the school board of a government school are—
  - (a) to establish strategic direction and priorities for the school; and
  - (b) to monitor and review school performance and to report on it to the director-general, parents of students at the school and staff; and
  - (c) to develop, maintain and review curriculum for the school; and
  - (d) to develop and review education policies at the school; and
  - (e) to establish budgetary policies for the school and approve the school budget; and
  - (f) to establish policies for the efficient and effective use of school assets and the management of financial risk; and

- (g) to develop relationships between the school and the community and between the school and community organisations; and
  - (h) to make recommendations to the director-general on issues affecting the school; and
  - (i) to encourage parent participation in their children's learning; and
  - (j) to exercise any other function given to the board under this Act or any other Territory law.
- (2) The director-general may give written directions to the school board about the exercise of its functions, either generally or in relation to a particular issue.
- (3) The director-general must, in an annual report under the *Annual Reports (Government Agencies) Act 2004* for a financial year, include particulars of any direction given by the director-general under this section in that financial year to a particular school board and not to school boards generally.
- (4) The school board must give effect to the director-general's directions.
- (5) The director-general is not required—
- (a) to accept, or act in accordance with, a recommendation of the school board; or
  - (b) to carry out a policy decided by the school board.

#### **40 Declaration of parents and citizens associations in certain circumstances**

- (1) If there is a dispute about the entity that should be the parents and citizens association of a government school, the director-general must call a meeting of parents of students at the school and interested members of the community to discuss the entity to be the representative of the parents and community.

- (2) If, in the director-general's opinion, it is appropriate in the circumstances to do so, the director-general may call a meeting of parents of students at a government school and interested members of the community to discuss the entity to be the representative of the parents and community.
- (3) The director-general may, after considering the outcome of a meeting under subsection (1) or (2) in relation to a government school, recommend to the Minister the entity to be the representative of the parents and community.
- (4) After receiving a recommendation under subsection (3), the Minister may declare an entity to be the parents and citizens association of a government school.
- (5) A declaration under subsection (4) is a notifiable instrument.

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

#### **41 Composition of school boards generally**

- (1) This section applies to a school board of a government school other than—
  - (a) a small school or a school-related institution; or
  - (b) a school to which section 43 (Composition of school boards of school-related institutions and other schools in special circumstances) applies.
- (2) The school board of a government school consists of—
  - (a) the principal of the school; and
  - (b) 1 member (the *appointed member*) appointed by the director-general as the appointed member; and
  - (c) 2 members (the *staff members*) elected by staff of the school and appointed by the director-general; and

- (d) 3 members (the *parents and citizens members*) elected by the parents and citizens association of the school and appointed by the director-general; and
- (e) the members (the *board appointed members*) (if any) appointed by the board under subsection (6); and
- (f) for a school prescribed under the regulations—2 members (the *student members*) elected by the students at the school and appointed by the director-general.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (3) A person is eligible to be elected or appointed as a staff member only if the person is employed as a member of the staff of the school.
- (4) A person is eligible to be elected or appointed a student member only if the person is a student at the school.
- (5) The appointed member, staff members, parent and citizens members and student members are appointed for the prescribed period.
- (6) The school board may appoint 1 or more people to be members of the board for a term (not longer than 12 months) decided by the school board.
- (7) The school board must not make an appointment under subsection (6) if there would be more than 2 board appointed members at the same time.

## **42 Composition of school boards of small schools**

- (1) This section applies to a school board of a small school other than a school to which section 43 (Composition of school boards of



school-related institutions and other schools in special circumstances) applies.

- (2) The school board of a small school consists of—
- (a) the principal of the school; and
  - (b) 1 member (the *appointed member*) appointed by the director-general as the appointed member; and
  - (c) 1 member (the *staff member*) appointed by the director-general as the staff member; and
  - (d) 2 members (the *parents and citizens members*) elected by the parents and citizens association of the school and appointed by the director-general; and
  - (e) the members (the *board appointed member*) (if any) appointed by the board under subsection (6).

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (3) A person is eligible to be appointed as the staff member only if the person is employed as a member of the staff of the school.
- (4) The staff member is to be appointed in a way prescribed under the regulations.
- (5) The appointed member, staff member and parent and citizen members are appointed for the prescribed period.
- (6) The school board may appoint 1 or more people to be members of the board for a term (not longer than 12 months) decided by the school board.

- (7) The school board must not make an appointment under subsection (6) if there would be more than 2 board appointed members at the same time.

**43 Composition of school boards of school-related institutions and other schools in special circumstances**

- (1) This section applies to a school that is—
- (a) a school-related institution; or
  - (b) declared, in writing, by the director-general to be a school to which special circumstances apply.
- (2) If the school is a school-related institution, the director-general must, if practical, determine the composition of the school board of the school.

**Example**

It may not be practical to establish a school board for a school-related institution with fewer than 3 staff.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) Subsection (2) does not prevent the director-general from determining the composition of a single school board for 2 or more institutions.
- (4) If the director-general makes a determination under subsection (2) for the school, the director-general may also determine—
- (a) the members who are required to be present at a meeting of the board; and
  - (b) the members who may not vote at a meeting of the board.
- (5) If the school is a school to which special circumstances apply, the director-general may determine the following:
- (a) the composition of the school board of the school;

- (b) the members who are required to be present at a meeting of the board;
  - (c) the members who may not vote at a meeting of the board.
- (6) The director-general may make a determination under subsection (2), (4) or (5) only with the Minister's written approval.
- (7) Before making the determination the director-general must, if practical, consult with the parents of students at the school, at a general meeting of the parents, about the composition of the board.
- (8) In deciding whether or not to give the approval, the Minister must have regard to—
- (a) the need for the principal of the school to be a member of the board; and
  - (b) the need for the director-general to be represented on the board; and
  - (c) whether staff of the school and students at the school have been consulted about the composition of the board; and
  - (d) any comments made by the staff and students at the school about the composition of the board; and
  - (e) the administrative needs, educational or related objectives, and any special characteristics of the school.
- (9) The director-general may appoint a person in accordance with the determination to be a member of the board of the school.
- Note 1* For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.
- Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).
- (10) A member of the board is appointed for the term stated in the instrument making or evidencing the appointment.

- (11) A determination under subsection (2), (4) or (5) is a disallowable instrument.

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

#### **44 Ending of appointment of members of school board**

- (1) The director-general must end the appointment of a member of the school board of a government school if the member ceases to be eligible to be appointed or elected to the position.
- (2) The director-general must end the appointment of a member of the school board of a government school, other than the principal of the school, if—
- (a) the member is absent from 3 consecutive meetings of the board without reasonable excuse or leave given by the board; or
  - (b) contravenes section 49 (Disclosure of interests by members of school boards) without reasonable excuse.
- (3) The director-general may end the appointment of a member of the school board of a government school, other than the principal at the school, for misbehaviour or physical or mental incapacity.

*Note* A person's appointment also ends if the person resigns (see Legislation Act, s 210).

#### **45 Chairperson and deputy chairperson of school boards**

- (1) The members of the school board of a government school must, whenever necessary, elect—
- (a) a member to be chairperson; and
  - (b) another member to be deputy chairperson.
- (2) The school board must tell the director-general of the election of a member as chairperson or deputy chairperson.

- (3) The members of the school board must not appoint the principal of the school or a member of staff of the school to be chairperson of the board.

**46 School boards to take part in selection of school principals**

The members of the school board of a government school must, whenever necessary, nominate a member of the board as a member of any selection panel established by the director-general to make recommendations to the director-general about the appointment of the principal for the school.

**Division 3.4.3 Proceedings of school boards**

**47 Time and place of meetings of school boards**

- (1) The school board of a government school meets at the times and places it decides.
- (2) However, the school board must meet at least 4 times a year.
- (3) The chairperson—
  - (a) may at any time call a meeting of the school board; and
  - (b) must call a meeting if asked by the Minister, the director-general or 3 members of the board.
- (4) If the chairperson is not available to call a meeting for any reason, the deputy chairperson or the principal of the school may call a meeting of the school board.

**48 Procedures governing proceedings of school boards**

- (1) The chairperson of the school board of a government school presides at all meetings of the board at which the chairperson is present.
- (2) If the chairperson is absent, the deputy chairperson presides.

- (3) If the chairperson and deputy chairperson are both absent, the member chosen by the members present presides.
- (4) Business may be carried out at a meeting of the school board only if 3 or more members are present and—
  - (a) for the school board of a school other than a school to which section 43 (Composition of school boards of school-related institutions and other schools in special circumstances) applies—at least 1 of the members present is a staff member and at least 1 of the members present is a parents and citizens association member; or
  - (b) for the school board of a school to which section 43 applies—the members (if any) who are required, under the determination under section 43 (4) or (5) applying to the school, to be present at a meeting of the school board are present.
- (5) At a meeting of the school board each member (other than a non-voting member) has a vote on each question to be decided.
- (6) A question is to be decided by a majority of the votes of the members present and voting but, if the votes are equal, the member presiding has a casting vote.
- (7) The school board may hold meetings, or allow members to take part in meetings, by telephone, closed-circuit television or another form of communication.
- (8) A member who takes part in a meeting under subsection (7) is taken to be present at the meeting.
- (9) A resolution of the school board is a valid resolution, even though it is not passed at a meeting of the board, if—
  - (a) all members (other than the non-voting members) agree, in writing, to the proposed resolution; and
  - (b) notice of the resolution is given under procedures decided by the school board.

- (10) The school board must keep minutes of its meetings.
- (11) The school board may conduct its proceedings (including its meetings) as it otherwise considers appropriate.
- (12) In this section:

*non-voting member* means—

- (a) for the school board of a school other than a school to which section 43 applies—a board appointed member; or
- (b) for the school board of a school to which section 43 applies—a member who, under the determination under section 43 (4) or (5) applying to the school, may not vote at a meeting of the school board.

#### **49 Disclosure of interests by members of school boards**

- (1) This section applies to a member of a school board if—
  - (a) the member has a direct or indirect financial interest in an issue being considered, or about to be considered, by the board; and
  - (b) the interest could conflict with the proper exercise of the member's functions in relation to the board's consideration of the issue.
- (2) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a meeting of the school board.
- (3) The disclosure must be recorded in the school board's minutes and, unless the board otherwise decides, the member (the *first member*) must not—
  - (a) be present when the board considers the issue; or
  - (b) take part in a decision of the board on the issue.
- (4) Any other member who also has a direct or indirect financial interest in the issue must not—

- (a) be present when the school board is considering its decision under subsection (3) in relation to the first member; or
  - (b) take part in making the decision.
- (5) Within 14 days after the end of each financial year, the chairperson of the school board must give the director-general a statement of any disclosure of interest made under this section in relation to the school board during the financial year.

#### **49A Protection of members of school boards**

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

### **Division 3.4.4 Financial matters**

#### **50 School boards to approve budgets**

- (1) The school board of a government school must approve a budget for each year.
- (2) The school board must approve the budget before the date decided by the director-general.
- (3) The budget may only be approved by the school board if it is in the form, and based on the accounting or other policies or practices, (if any) required by the director-general.
- (4) The director-general may ask the school board to approve a budget for a part of a year.
- (5) The school board must comply with the request.
- (6) If the school board approves the budget, money of the school may be spent in accordance with the budget.



## **51 Application of money of school**

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

## **52 School boards to approve financial statement and report**

- (1) As soon as practicable after the end of each half-year (but not later than the date decided by the director-general), the school board of a government school must approve a financial statement for the half-year, in a form approved by the director-general or as the director-general directs.
- (2) As soon as practicable after the end of each year (but not later than the date decided by the director-general), the school board of a government school must approve an annual report on the board's operations during the year.
- (3) The annual report must include—
  - (a) the financial statements approved under subsection (1) for each half-year; and
  - (b) a statement of how voluntary contributions made to the school have been or will be spent; and
  - (c) if a school board is holding funds in reserve—a statement setting out the purposes for which the funds are being held and the amount being held for each of those purposes.

*Note* If a form is approved under s 154 for a statement under par (c), the form must be used.

- (4) The school board must give a copy of each report approved under this section to the director-general.
- (5) The director-general may issue guidelines about what is, or is not, holding funds in reserve.

**53 School boards to make available summaries of budget and annual report**

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

## **Part 3.5                      Government Schools Education Council**

### **Division 3.5.1              Establishment and membership**

#### **54                      Establishment of council (government)**

The Government Schools Education Council (in this part called the *council*) is established.

#### **55                      Functions of council (government)**

The functions of the council are—

- (a) to advise the Minister on any aspect of the ACT government school system; and
- (b) when asked by the Minister under this paragraph, to inquire into and give advice to the Minister on any aspect of the ACT government school system; and
- (c) to meet with the Non-Government Schools Education Council to discuss matters of mutual interest; and
- (d) to exercise any other function given to the council under this Act or any other Territory law.

*Note*        The Minister must present a copy of any advice given under s 55 (a) or (b) to the Legislative Assembly (see s 66A).

#### **56                      Membership of council (government)**

The council consists of the following members:

- (a) the director-general;
- (b) the members (*appointed members*) appointed under section 57.

#### **57                      Appointed members of council (government)**

- (1) The Minister must appoint the following members of the council:

- (a) a chairperson;
- (b) 6 people who, in the Minister's opinion, have experience in 1 or more of the areas of business and commerce, public policy, early childhood care, education, the special needs of young people and teacher education (the *community members*);
- (c) 10 people who, in the Minister's opinion, represent the views of government school education (the *education members*).

*Note 1* For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

*Note 3* Certain Ministerial appointments require consultation with a Legislative Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (2) For subsection (1) (c), the Minister must appoint—
  - (a) 2 education members chosen from nominations of the peak organisation representing principals; and
  - (b) 2 education members chosen from nominations of the government teacher union; and
  - (c) 2 education members chosen from nominations of the peak organisation representing parent associations of government schools; and
  - (d) 2 education members chosen from nominations of the peak organisation representing students; and
  - (e) 1 education member chosen from nominations of the peak organisation representing school boards; and

- (f) 1 education member chosen from nominations of the peak organisation representing preschool parents.

**58 Deputy chairperson of council (government)**

- (1) The appointed members must, whenever necessary, elect another appointed member to be deputy chairperson.
- (2) The council must tell the Minister of the election of an appointed member as deputy chairperson.

**59 Term of appointment to council (government)**

- (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 must state whether the person is appointed as chairperson or a community or education member.

*Note* A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

**60 Ending of appointment to council (government)**

- (1) The Minister may end the appointment of an appointed member—
  - (a) for misbehaviour; or
  - (b) for contravening section 65 (Disclosure of interests by members of council (government)).

*Note* A person's appointment also ends if the person resigns (see Legislation Act, s 210).

- (2) The Minister may also end the appointment of an education member if satisfied that the person no longer represents the views of the organisation from which the person was chosen.

**61 Conditions of appointment generally of appointed members**

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

**62 Arrangements for staff**

- (1) The council may arrange with the director-general to use public servants in the administrative unit under the director-general's control.

*Note* The director-general means the director-general of the administrative unit responsible for this section (see Legislation Act, s 163 (References to a director-general or the director-general)). Administrative units are established under the administrative arrangements (see *Public Sector Management Act 1994*, s 13).

- (2) The *Public Sector Management Act 1994* applies to the management by the council of public servants the subject of an arrangement under subsection (1).

**Division 3.5.2 Proceedings of council (government)**

**63 Time and place of meetings of council (government)**

- (1) The council meets at the times and places it decides.
- (2) However, the council must meet at least twice a year.
- (3) The chairperson—
- (a) may at any time call a meeting of the council; and
  - (b) must call a meeting if asked by the Minister, the director-general or at least 9 members.
- (4) If the chairperson is not available to call a meeting for any reason, the deputy chairperson may call a meeting of the council.

**64 Procedures governing proceedings of council (government)**

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

**65 Disclosure of interests by members of council  
(government)**

- (1) This section applies to a member of the council if—
  - (a) the member has a direct or indirect financial interest in an issue being considered, or about to be considered, by the council; and
  - (b) the interest could conflict with the proper exercise of the member's functions in relation to the council's consideration of the issue.
- (2) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a meeting of the council.
- (3) The disclosure must be recorded in the council's minutes and, unless the council otherwise decides, the member (the *first member*) must not—
  - (a) be present when the council considers the issue; or
  - (b) take part in a decision of the council on the issue.
- (4) Any other member who also has a direct or indirect financial interest in the issue must not—
  - (a) be present when the council is considering its decision under subsection (3) in relation to the first member; or
  - (b) take part in making the decision.
- (5) Within 14 days after the end of each financial year, the chairperson of the council must give the Minister a statement of any disclosure of interest made under this section during the financial year.



### **Division 3.5.3      Other provisions relating to council (government)**

#### **66            Minister to seek advice**

- (1) Before deciding the budget priorities and strategic directions for government schools each year, the Minister must ask for, and consider the advice of, the Government Schools Education Council.
- (2) This section does not limit the matters that the Minister may take into account in deciding the budget priorities and strategic directions for government schools.

#### **66A          Minister to present advice of council (government)**

The Minister must present a copy of advice given to the Minister under section 55 (a) or (b) (Functions of council (government)) to the Legislative Assembly within 6 sitting days after the day it is given to the Minister.

## **Part 3.6 Other provisions**

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

#### **67 Appointment of authorised persons (government)**

- (1) The director-general may appoint a person to be an authorised person (government) for this Act or a provision of this Act, other than chapter 4 (Non-government schools).

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) The regulations may prescribe a person to be an authorised person (government) for this Act or a provision of this Act, other than chapter 4.
- (3) A person may be appointed as an authorised person (government) under subsection (1) only if—
- (a) the person is an Australian citizen or a permanent resident of Australia; and
  - (b) the director-general is satisfied that the person is a suitable person to be appointed, having regard in particular to—
    - (i) whether the person has any criminal convictions; and
    - (ii) the person's employment record; and
  - (c) the person has satisfactorily completed adequate training to exercise the powers of an authorised person (government) proposed to be given to the person.
- (4) To remove any doubt, a person may be both an authorised person (government) and an authorised person (non-government).

**68 Identity cards for authorised persons (government)**

- (1) The director-general must give an authorised person (government) an identity card that states the person is an authorised person (government) for this Act, or stated provisions of this Act, and shows—
  - (a) a recent photograph of the person; and
  - (b) the name of the person; and
  - (c) the date of issue of the card; and
  - (d) an expiry date for the card; and
  - (e) anything else prescribed under the regulations.
- (2) A person who ceases to be an authorised person (government) must return his or her identity card to the director-general as soon as practicable, but within 21 days after the day the person ceases to be an authorised person.

Maximum penalty: 1 penalty unit.

- (3) An offence against subsection (2) is a strict liability offence.

**Division 3.6.2 Inspection powers for government schools**

**69 Power not to be exercised before identity card shown etc**

- (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.
- (2) An authorised person (government) may not remain in a government school entered under this division if, when asked by the principal, the authorised person does not show his or her identity card.

**70 Entry to government schools**

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

**71 Powers on entry**

An authorised person (government) who enters a government school under section 70 may inspect the school or anything in it (including the register of enrolment and attendances).

## **Chapter 4            Non-government schools**

### **Part 4.1            General**

#### **74            Meaning of *school* in ch 4**

In this chapter:

*school* does not include a government school.

#### **75            Principles on which ch 4 based**

The following are the principles on which this chapter is based:

- (a) the non-government school sector consists of schools from a range of different educational and religious philosophies;
- (b) the variety of schools in the sector reflects the diversity of the community in the ACT and the preferences of parents for a particular style of education for their children;
- (c) the non-government schools sector is committed to—
  - (i) developing the spiritual, physical, emotional and intellectual welfare of its students; and
  - (ii) innovation, diversity and choice; and
  - (iii) maximising student outcomes; and
  - (iv) teacher, parent and student participation in all aspects of school education; and
  - (v) promoting the partnership between home and school; and
  - (vi) preparing students for their full participation in all aspects of a democratic society.

## **77 Registrar**

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

*Note 1* For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

*Note 3* Certain Ministerial appointments require consultation with a Legislative Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

## **78 Functions of registrar**

The registrar has the following functions:

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

## **79 Register of non-government schools**

- (1) The registrar must keep a register of non-government schools.
- (2) A person may, without charge, inspect the register of non-government schools during ordinary business hours at the office of the director-general.
- (3) A person may, on payment of the reasonable copying costs, obtain a copy of all or part of the register.

## **80 Availability of information about operation of non-government schools and their educational programs**

- (1) The principal of a non-government school must make available to parents of students at the school and to the staff and students of the school information about the school's educational programs and policies, and the operation of the school.

- (2) The principal of a non-government school must also consult parents of students at the school about the operation of the school, including its educational programs and policies.

**81 Approved educational courses for students at non-government schools**

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

## Part 4.2 Registration—non-government schools

### 82 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 commits an offence if—

(a) the school is not registered or provisionally registered under this part; and

(b) the school begins educating a student at any educational level.

Maximum penalty: 20 penalty units.

- (3) The principal of a school commits an offence if—

(a) the school is not registered or provisionally registered under this part for education at a particular campus; and

(b) the school begins educating a student at that campus.

Maximum penalty: 10 penalty units.

- (4) The principal of a school commits an offence if—

(a) the school is not registered or provisionally registered under this part for education at a particular education level; and

(b) the school begins educating a student at that education level.

Maximum penalty: 10 penalty units.

- (5) An offence against this section is a strict liability offence.

### 83 Applications for in-principle approval for proposed registration

- (1) This section applies if a person intends to make application under—



- (a) section 85 for provisional registration of a school; or
  - (b) section 88A for registration of a school at an additional campus; or
  - (c) section 89 for registration of a school at an additional educational level.
- (2) The person must apply in writing to the Minister for approval (*in-principle approval*) to apply for the proposed registration.

*Note* If a form is approved under s 154 for the application, the form must be used.

- (3) The application must state the day the person proposes to begin operating the school or operating the school at the additional campus or additional educational level (the *proposed opening day*).
- (4) The proposed opening day must be at least 2 years, but not more than 4 years, after the day the application is made.
- (5) The director-general must publish notice of the making of the application in a daily newspaper.
- (6) The notice must state that written comments on the proposed registration may be made to the Minister within a stated period of at least 60 days after the day the notice is published.
- (7) The director-general must make a copy of the application for in-principle approval available for inspection free of charge to the public during ordinary business hours at the office of an administrative unit administered by the director-general.

## **84 Deciding in-principle applications**

- (1) In deciding whether to give in-principle approval for the provisional registration of a school, the Minister must have regard to—
  - (a) whether the proposed school would undermine the viability of existing schools; and

- (b) whether there is, or is likely to be, demand in the community for the proposed school, including—
  - (i) any increase, or likely increase, in the number of school-age children in the area where the school is to be located; and
  - (ii) the level of registration of interest shown by the community for the proposed school.
- (2) In deciding whether to give in-principle approval for the registration of a school at an additional campus, the Minister must have regard to—
  - (a) whether the provision of the additional campus by the school would undermine the viability of other existing schools; and
  - (b) the demand for the additional campus, including the level of registration of interest shown by the community for the proposed provision of the additional campus by the school.
- (3) In deciding whether to give in-principle approval for the registration of a school at an additional educational level, the Minister must have regard to—
  - (a) whether the provision of the additional educational level by the school would undermine the viability of other existing schools; and
  - (b) the demand for the additional educational level, including the level of registration of interest shown by the community for the proposed provision of the additional educational level by the school.
- (4) If the Minister is satisfied after considering the application, and after having regard to any comments made under section 83 (6) and the matters mentioned in subsection (1), (2) or (3), that in-principle approval should be given for the proposed registration, the Minister must, by written notice, give the person in-principle approval for the proposed application.

- (5) If the Minister is not satisfied after considering the application, and after having regard to any comments made under section 83 (6) and the matters mentioned in subsection (1), (2) or (3), that in-principle approval should be given for the proposed registration, the Minister must, by written notice, refuse to give the person in-principle approval for the proposed application.
- (6) A notice under subsection (4) or (5) must state the Minister's reasons for giving or refusing to give in-principle approval for the proposed registration.
- (7) The director-general must make a copy of the Minister's reasons available for inspection free of charge to the public during ordinary business hours at the office of an administrative unit administered by the director-general.
- (8) An in-principle approval lapses on whichever of the following is later:
  - (a) 2 years after the day it is given;
  - (b) the proposed opening day.

## **85 Application for provisional registration**

- (1) This section applies if—
  - (a) a person has in-principle approval under section 84 to apply for provisional registration of a school; and
  - (b) the person has given the registrar written notice of the person's intention to apply at least the prescribed period before the first day of the school year or term when it is proposed to begin operating the school; and
  - (c) the in-principle approval has not lapsed.
- (2) The person may apply in writing to the Minister for provisional registration of the school.
- (3) The application must state where the school is to be located.

*Note* If a form is approved under s 154 for the application, the form must be used.

- (4) The director-general must publish notice of the making of the application in a daily newspaper.
- (5) The director-general must make a copy of the application for provisional registration available for inspection free of charge to the public during ordinary business hours at the office of an administrative unit administered by the director-general.
- (6) In this section:

*prescribed period* means—

- (a) 6 months; or
- (b) if the Minister approves a shorter period for the notice—that period.

## 86 Provisional registration

- (1) This section applies if an application is made under section 85 for provisional registration of a school.
- (2) Before deciding whether the school should be provisionally registered, the Minister must appoint a panel to report to the Minister on the application.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

*Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (3) If the Minister is satisfied after considering the panel's report that the school meets the criteria mentioned in subsection (6), the Minister must direct the registrar to provisionally register the school.

*Note* Section 93 deals with the duration of provisional registration.

- (4) If the Minister directs the registrar to provisionally register the school, the registrar must provisionally register the school by—
- (a) entering particulars of the school required under the regulations in the register of non-government schools; and
  - (b) giving the proprietor of the school a certificate of provisional registration for the school.
- (5) If the Minister is not satisfied after considering the panel's report that the school meets the criteria mentioned in subsection (6), the Minister must direct the registrar to refuse to provisionally register the school.
- (6) The criteria for provisional registration of a school are that—
- (a) the proprietor of the school is a corporation; and
  - (b) the school will have appropriate policies, facilities and equipment for—
    - (i) the curriculum to be offered by the school; and
    - (ii) the safety and welfare of its students; and
  - (c) the curriculum (including the framework of the curriculum and the principles on which the curriculum is based) will meet the curriculum requirements for students attending government schools; and
  - (d) the nature and content of the education to be offered at the school will be appropriate for the educational levels for which provisional registration of the school is sought; and

- (e) the teaching staff will be qualified to teach at the educational levels at which they are to be employed to teach; and
- (f) the school will have satisfactory processes to monitor quality educational outcomes; and
- (g) the school will be financially viable.

### **87 Application for registration**

- (1) This section applies to a school that has been provisionally registered for at least 12 months.
- (2) The proprietor of the school may apply in writing to the Minister for registration of the school at the educational levels for which the school is provisionally registered.

*Note* If a form is approved under s 154 for the application, the form must be used.

- (3) The director-general must publish notice of the making of the application in a daily newspaper.
- (4) The director-general must make a copy of the application for registration available for inspection free of charge to the public during ordinary business hours at the office of an administrative unit administered by the director-general.

### **88 Registration**

- (1) This section applies if an application is made under section 87 for registration of a school.
- (2) Before deciding whether the school should be registered, the Minister must appoint a panel to report to the Minister on the application.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

*Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (3) If the Minister is satisfied after considering the panel's report that the school meets the criteria mentioned in subsection (6), the Minister must direct the registrar to register the school for a stated period of not longer than 5 years.
- (4) If the Minister directs the registrar to register the school, the registrar must register the school by—
  - (a) entering particulars of the school required under the regulations in the register of non-government schools; and
  - (b) giving the proprietor of the school a certificate of registration for the school.
- (5) If the Minister is not satisfied after considering the panel's report that the school meets the criteria mentioned in subsection (6), the Minister must direct the registrar to refuse to register the school.
- (6) The criteria for registration of a school are that—
  - (a) the proprietor of the school is a corporation; and
  - (b) the school has appropriate policies, facilities and equipment for—
    - (i) the curriculum offered by the school; and
    - (ii) the safety and welfare of its students; and
  - (c) the curriculum (including the framework of the curriculum and the principles on which the curriculum is based) meets the curriculum requirements for students attending government schools; and

- (d) the nature and content of the education offered at the school are appropriate for the educational levels for which the school is provisionally registered; and
- (e) the teaching staff are qualified to teach at the educational levels at which they are employed to teach; and
- (f) the school has satisfactory processes to monitor quality educational outcomes; and
- (g) the school is financially viable.

**88A Application for registration at additional campus**

- (1) This section applies if—
  - (a) a proprietor of a registered non-government school has in-principle approval under section 84 (Deciding in-principle applications) to apply for registration of the school at a stated additional campus; and
  - (b) the proprietor has given the registrar written notice of the proprietor's intention to apply at least the prescribed period before the first day of the school year or term when it is proposed to begin operating the school at the additional campus; and
  - (c) the in-principle approval has not lapsed.

- (2) The proprietor of the school may apply in writing to the Minister for registration of the school at the additional campus.

*Note* If a form is approved under s 154 for the application, the form must be used.

- (3) The director-general must publish notice of the making of the application in a daily newspaper.
- (4) The notice must state that written comments on the proposed registration may be made to the Minister within a stated period of at least 60 days after the day the notice is published.



- (5) The director-general must make a copy of the application for registration available for inspection free of charge to the public during ordinary business hours at the office of an administrative unit administered by the director-general.
- (6) In this section:  
*prescribed period* means—
- (a) 6 months; or
  - (b) if the Minister approves a shorter period for the application— that period.

### **88B Registration at additional campus**

- (1) This section applies if an application is made under section 88A for registration of a school at an additional campus.
- (2) Before deciding whether the school should be registered at the additional campus, the Minister must appoint a panel to report to the Minister on the application.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

*Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (3) If the Minister is satisfied after considering the panel's report that the school meets the criteria mentioned in subsection (7), the Minister must direct the registrar to register the school at the additional campus.
- (4) If the Minister directs the registrar to register the school at the additional campus, the registrar must register the school at the additional campus by—

- (a) entering the particulars of the school required under the regulations in the register of non-government schools; and
  - (b) giving the proprietor of the school a certificate of registration that includes the additional campus (a *new certificate*).
- (5) If the registrar gives the proprietor a new certificate, the proprietor must return the school's existing certificate of registration to the registrar within 14 days after the day the proprietor receives the new certificate.
- (6) If the Minister is not satisfied after considering the panel's report that the school meets the criteria mentioned in subsection (7), the Minister must direct the registrar to refuse to register the school at the additional campus.
- (7) The criteria for registration of a school at an additional campus are that—
- (a) the school will have appropriate policies, facilities and equipment for—
    - (i) the curriculum to be offered by the school at the additional campus; and
    - (ii) the safety and welfare of its students at the additional campus; and
  - (b) the curriculum (including the framework of the curriculum and the principles on which the curriculum is based) meets the curriculum requirements for students attending government schools; and
  - (c) the nature and content of the education to be offered at the school will be appropriate for the additional campus; and
  - (d) the teaching staff will be qualified to teach at the additional campus; and
  - (e) the school will have satisfactory processes to monitor quality educational outcomes at the additional campus; and

- (f) the school will be financially viable.

**89 Application for registration at additional educational levels**

- (1) This section applies if—
- (a) a proprietor of a registered non-government school has in-principle approval under section 84 (Deciding in-principle applications) to apply to operate the school at a stated additional educational level; and
  - (b) the proprietor has given the registrar written notice of the proprietor's intention to apply at least the prescribed period before the first day of the school year or term when it is proposed to begin operating the school at the additional educational level; and
  - (c) the in-principle approval has not lapsed.

- (2) The proprietor of the school may apply in writing to the Minister for registration of the school at the additional educational level.

*Note* If a form is approved under s 154 for the application, the form must be used.

- (3) The director-general must publish notice of the making of the application in a daily newspaper.
- (4) The notice must state that written comments on the proposed registration may be made to the Minister within a stated period of at least 60 days after the day the notice is published.
- (5) The director-general must make a copy of the application for registration available for inspection free of charge to the public during normal business hours at the office of an administrative unit administered by the director-general.

- (6) In this section:

*prescribed period* means—

- (a) 6 months; or
- (b) if the Minister approves a shorter period for the application—  
that period.

## 90 Registration at additional educational levels

- (1) This section applies if an application made under section 89 for registration of a school at an additional educational level.
- (2) Before deciding whether a school should be registered at the additional educational level, the Minister must appoint a panel to report to the Minister on the application.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

*Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (3) If the Minister is satisfied after considering the panel's report that the school meets the criteria mentioned in subsection (7), the Minister must direct the registrar to register the school at the additional educational level.
- (4) If the Minister directs the registrar to register the school at the additional educational level, the registrar must register the school at the additional educational level by—
  - (a) entering the particulars of the school required under the regulations in the register of non-government schools; and
  - (b) giving the proprietor of the school a certificate of registration that includes the additional educational level (a *new certificate*).
- (5) If the registrar gives the proprietor a new certificate, the proprietor must return the school's existing certificate of registration to the

registrar within 14 days after the day the proprietor receives the new certificate.

- (6) If the Minister is not satisfied after considering the panel's report that the school meets the criteria mentioned in subsection (7), the Minister must direct the registrar to refuse to register the school at the additional educational level.
- (7) The criteria for registration of a school at an additional educational level are that—
  - (a) the school will have appropriate policies, facilities and equipment for—
    - (i) the curriculum to be offered by the school at the additional educational level; and
    - (ii) the safety and welfare of its students at the additional educational level; and
  - (b) the curriculum (including the framework of the curriculum and the principles on which the curriculum is based) meets the curriculum requirements for students attending government schools; and
  - (c) the nature and content of the education to be offered at the school will be appropriate for the additional educational level; and
  - (d) the teaching staff will be qualified to teach at the additional educational level; and
  - (e) the school will have satisfactory processes to monitor quality educational outcomes at the additional educational level; and
  - (f) the school will be financially viable.

**91 Conditions of provisional registration or registration**

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

- (a) the proprietor of the school remains a corporation; and
- (b) the school has appropriate policies, facilities and equipment for—
  - (i) the curriculum offered by the school; and
  - (ii) the safety and welfare of its students; and
- (c) the curriculum (including the framework of the curriculum and the principles on which the curriculum is based) meets the curriculum requirements for students attending government schools; and
- (d) the nature and content of the education offered at the school are appropriate for the educational levels for which the school is provisionally registered or registered; and
- (e) the teaching staff are qualified to teach at the educational levels at which they are employed to teach; and
- (f) the school has satisfactory processes to monitor quality educational outcomes; and
- (g) the school is financially viable.

**92 Certificate of provisional registration or registration**

- (1) A certificate of provisional registration or registration of a non-government school must—
  - (a) state the proprietor of the school; and
  - (b) state the educational level or levels for which the school is provisionally registered or registered under this part; and

- (c) state the location of the campus or campuses for which the school is provisionally registered or registered under this part; and
  - (d) state the term of provisional registration or registration; and
  - (e) include any other particulars required under the regulations.
- (2) The registrar may include any other particulars in the certificate that the registrar considers appropriate.
  - (3) The proprietor of a registered non-government school must tell the registrar in writing about a change in any of the particulars of the certificate within 1 month after the day the change happens.

**93 Period of provisional registration and registration**

- (1) Provisional registration of a school ends when the earliest of the following happens:
  - (a) 2 years after the school is provisionally registered;
  - (b) the school is registered under section 88.
- (2) Registration of a school is for a period not longer than 5 years stated in the school's certificate of registration.

**94 Investigation of complaints—non-government schools**

- (1) The proprietor of a non-government school must develop and implement a complaints policy for the school.
- (2) The proprietor of a non-government school must, as soon as practicable, investigate any complaint about the administration, management and operation of the school that, in the proprietor's opinion, is not a frivolous or vexatious complaint.

**95 Cancellation of provisional registration or registration**

- (1) The Minister may direct the registrar to cancel the provisional registration or registration of a school if satisfied on reasonable grounds—
  - (a) that a condition of the school's provisional registration or registration has been contravened; or
  - (b) that the school's proprietor or principal has otherwise contravened this Act.

*Note* Section 91 (Conditions of provisional registration or registration) sets out the conditions of registration.

- (2) Before directing the registrar to cancel the provisional registration or registration of a school, the Minister must give the proprietor of the school a written notice—
  - (a) stating the grounds on which the Minister proposes to direct the registrar to cancel the provisional registration or registration; and
  - (b) stating the facts that, in the Minister's opinion, establish the grounds; and
  - (c) telling the proprietor that the proprietor may, within 14 days beginning the day after the day the proprietor receives the notice, give a written response to the Minister about the matters in the notice.



- (3) In deciding whether to direct the registrar to cancel the provisional registration or registration, the Minister must consider any response given to the Minister in accordance with subsection (2) (c).
- (4) If the Minister is satisfied that the grounds for cancelling the provisional registration or registration have been established, the Minister may direct the registrar to cancel the school's provisional registration or registration.
- (5) If the Minister directs the registrar to cancel the school's provisional registration or registration, the registrar must cancel the provisional registration or registration by noting the cancellation in the particulars of the school in the register of non-government schools.
- (6) The Minister must give the proprietor written notice of the Minister's decision.
- (7) Cancellation of provisional registration or registration takes effect on the day when notice of the cancellation is given to the proprietor or, if the notice states a later date of effect, that date.

## 96 Application for renewal of registration

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

*Note* If a form is approved under s 154 for the application, the form must be used.

- (2) The application must be made at least the prescribed period before the registration ends.
- (3) In this section:

***prescribed period*** means—

- (a) 6 months; or
- (b) if the Minister approves a shorter period—that period.

## 97 Renewal of registration

- (1) This section applies if application is made under section 96 for renewal of registration of a school.
- (2) Before deciding whether the registration of a school should be renewed, the Minister must appoint a panel to report to the Minister on the application.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

*Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (3) If the Minister is satisfied, after considering the panel's report, that the school meets the criteria mentioned in subsection (6), the Minister must direct the registrar to renew the registration of the school for a stated period of not longer than 5 years.
- (4) If the Minister directs the registrar to renew the registration of the school, the registrar must renew the registration by—
  - (a) entering the particulars of the school required under the regulations in the register of non-government schools; and
  - (b) giving the proprietor of the school a certificate of registration for the school.
- (5) If the Minister is not satisfied, after considering the panel's report, that the school meets the criteria mentioned in subsection (6), the Minister must direct the registrar to refuse to renew the registration of the school.
- (6) The criteria for renewal of registration of a school are that—
  - (a) the proprietor of the school remains a corporation; and

- (b) the school has appropriate policies, facilities and equipment for—
  - (i) the curriculum offered by the school; and
  - (ii) the safety and welfare of its students; and
- (c) the curriculum (including the framework of the curriculum and the principles on which the curriculum is based) meets the curriculum requirements for students attending government schools; and
- (d) the nature and content of the education offered at the school are appropriate for the educational levels for which the school is provisionally registered or registered; and
- (e) the teaching staff are qualified to teach at the educational levels at which they are employed to teach; and
- (f) the school has satisfactory processes to monitor quality educational outcomes; and
- (g) the school is financially viable.

**98 Inspection of panel reports for school registration etc**

- (1) This section applies to a report to the Minister by a panel under any of the following provisions:
  - (a) section 86 (Provisional registration);
  - (b) section 88 (Registration);
  - (c) section 88B (Registration at additional campus);
  - (d) section 90 (Registration at additional educational levels);
  - (e) section 97 (Renewal of registration).
- (2) A person may, without charge, inspect a copy of the report during ordinary business hours at the office of the director-general.

- (3) A person may, on payment of the reasonable copying costs, obtain a copy of all or part of the report.

## Part 4.3 Attendance at non-government schools

### 99 Keeping of register of enrolments and attendances for non-government schools

- (1) The principal of a non-government school, or the person giving an approved educational course (non-government), commits an offence if the principal or person fails to keep a register of enrolments and attendances

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

### 100 Keeping records of enrolment and attendances for non-government schools

- (1) The principal of a non-government school, or the person giving an approved educational course (non-government), must ensure that the following information is entered in the register of enrolments and attendances:

- (a) the full name of each student enrolled at the school or course;
- (b) a record of the attendance or nonattendance of the student at the school or course on every day when the school or course is open for attendance.

Maximum penalty: 10 penalty units.

- (2) The principal of a non-government school, or the person giving an approved educational course (non-government), commits an offence if—
  - (a) the principal or person makes an entry in the register of enrolments and attendances; and
  - (b) the principal or person is reckless about whether the entry is correct.

Maximum penalty: 10 penalty units.

- (3) An offence against subsection (1) is a strict liability offence.

**101 Inspection of register of enrolment and attendances for non-government schools**

- (1) The principal of a non-government school, or the person giving an approved educational course (non-government), commits an offence if—
- (a) an authorised person (non-government) asks the principal or person to make the register of enrolments and attendances available to the authorised person; and
  - (b) the principal or person fails to make the register available as asked.

Maximum penalty: 10 penalty units.

- (2) The principal of a non-government school, or the person giving an approved educational course (non-government), commits an offence if—
- (a) the director-general or an authorised person (non-government) asks the principal or the person to give the director-general or authorised person stated information about enrolments or attendances of students at the school or course during a stated period or at a stated time; and
  - (b) the principal or person fails to give the information in accordance with the request.

Maximum penalty: 50 penalty units.

- (3) An authorised person (non-government) may make copies of the register of enrolments and attendances or any part of the register.
- (4) The principal of a non-government school, or the person giving an approved educational course (non-government), must take

reasonable steps to assist an authorised person (non-government) in exercising functions under this section.

- (5) An offence against this section is a strict liability offence.

**102 Procedures to encourage attendance at non-government schools**

- (1) The principal of a non-government school must set up procedures—
- (a) to encourage students to attend school regularly; and
  - (b) to help parents to encourage their children to attend school regularly.
- (2) The principal must refer parents and children to support services that encourage children to attend school regularly when the procedures mentioned in subsection (1) are not successful.
- (3) If a student enrolled at a non-government school has not been attending school regularly, the principal of the school may, by written notice, require the student's parents and the student to meet with an authorised person (non-government) at a stated place and time.

**103 Reporting to parents—non-government schools**

- (1) The principal of a non-government school must set up procedures for giving reports to the parents of a student enrolled at the school about the student's academic progress and social development at the school.
- (2) A report must be given to the student's parents at least twice a year.

**104 Suspension, transfer or exclusion of students—Catholic systemic schools**

- (1) This section applies if—
- (a) a student attending a non-government school that is a Catholic systemic school—

- (i) is persistently and wilfully noncompliant; or
  - (ii) threatens to be violent or is violent to another student attending the school, a member of the staff of the school or anyone else involved in the school's operation; or
  - (iii) acts in a way that otherwise threatens the good order of the school or the safety or wellbeing of another student attending the school, a member of staff of the school or anyone else involved in the school's operation; or
  - (iv) displays behaviour that is disruptive to the student's learning or that of other students; and
- (b) the principal of the school is satisfied that action should be taken under this section.
- (2) The principal may recommend to the director that the director—
- (a) suspend the student from the school for a stated period of not longer than 20 days; or
  - (b) transfer the student to another Catholic systemic school; or
  - (c) exclude the student from all Catholic systemic schools.
- (3) After considering the principal's recommendation, the director may—
- (a) give effect to the recommendation; or
  - (b) take any other action mentioned in subsection (2) that the director considers appropriate; or
  - (c) suspend the student for not longer than 20 days.
- (4) The director may exclude the student only if—
- (a) the student's parents have been given an opportunity to be consulted, and told in writing, about the proposed exclusion of the student and the reasons for it; and



- (b) the student has been given a reasonable opportunity to attend counselling, undertake relevant educational programs or receive other appropriate assistance; and
  - (c) as far as the student's maturity and capacity for understanding allow, the participation of the student has been sought, and any views of the student considered, in deciding whether to exclude the student; and
  - (d) the student has been given sufficient information about the decision-making process, in a language and way that the student can understand, to allow the student to take part in the process; and
  - (e) the student has been offered information about alternatives for continuing the student's education after the exclusion.
- (5) The director may suspend or transfer the student only if—
- (a) the student's parents have been given an opportunity to be consulted, and told in writing, about the proposed suspension or transfer of the student and the reasons for it; and
  - (b) as far as the student's maturity and capacity for understanding allow, the participation of the student has been sought, and any views of the student considered, in deciding whether to suspend or transfer the student; and
  - (c) the student has been given sufficient information about the decision-making process, in a language and way that the student can understand, to allow the student to take part in the process; and
  - (d) the student has been given a reasonable opportunity to continue the student's education during the suspension.
- (6) Despite subsection (5), the director may immediately suspend the student for not longer than 5 days if, in the director's opinion, the circumstances are of such urgency or seriousness to require the student's immediate suspension.

- (7) However, before suspending the student under subsection (6), the director must comply with the requirements of subsection (5) (a) to (d) to the extent that it is practicable and appropriate to do so.
- (8) To remove any doubt, the director may suspend the student under subsection (6) while deciding what other action (if any) should be taken in relation to the student under this section.
- (9) If the student is suspended for 7 or more school days in a school term (whether or not consecutive school days), the director must ensure that the student is given a reasonable opportunity to attend appropriate counselling.
- (10) The director may delegate the director's power to suspend a student from a school for not longer than 15 days to the principal of the school.

*Note* For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

- (11) If the director excludes a student from all Catholic systemic schools, the director must give the registrar written notice of the exclusion.
- (12) In this section:

*director* means the person occupying the position prescribed under the regulations.

## **105 Suspension or exclusion of students—other non-government schools**

- (1) This section applies if—
  - (a) a student attending a non-government school (other than a Catholic systemic school)—
    - (i) is persistently and wilfully noncompliant; or
    - (ii) threatens to be violent or is violent to another student attending the school, a member of the staff of the school or anyone else involved in the school's operation; or

- (iii) acts in a way that otherwise threatens the good order of the school or the safety or wellbeing of another student attending the school, a member of staff of the school or anyone else involved in the school's operation; or
  - (iv) displays behaviour that is disruptive to the student's learning or that of other students; and
- (b) the principal of the school is satisfied that action should be taken under this section.
- (2) The principal may—
- (a) suspend the student from the school for a stated period of not longer than 20 days; or
  - (b) exclude the student from the school.
- (3) The principal may exclude the student only if—
- (a) the student's parents have been given an opportunity to be consulted, and told in writing, about the proposed exclusion of the student and the reasons for it; and
  - (b) the student has been given a reasonable opportunity to attend counselling, undertake relevant educational programs or receive other appropriate assistance; and
  - (c) as far as the student's maturity and capacity for understanding allow, the participation of the student has been sought, and any views of the student considered, in deciding whether to exclude the student; and
  - (d) the student has been given sufficient information about the decision-making process, in a language and way that the student can understand, to allow the student to take part in the process; and
  - (e) the student has been offered information about alternatives for continuing the student's education after the exclusion.

- (4) The principal may suspend the student only if—
  - (a) the student's parents have been given an opportunity to be consulted, and told in writing, about the proposed suspension of the student and the reasons for it; and
  - (b) as far as the student's maturity and capacity for understanding allow, the participation of the student has been sought, and any views of the student considered, in deciding whether to suspend the student; and
  - (c) the student has been given sufficient information about the decision-making process, in a language and way that the student can understand, to allow the student to take part in the process; and
  - (d) the student has been given a reasonable opportunity to continue the student's education during the suspension.
- (5) Despite subsection (4), the principal may immediately suspend a student for not longer than 5 days if, in the principal's opinion, the circumstances are of such urgency or seriousness to require the student's immediate suspension.
- (6) However, before suspending a student under subsection (5), the principal must comply with the requirements of subsection (4) (a) to (d) to the extent that it is practicable and appropriate to do so.
- (7) To remove any doubt, the principal may suspend the student under subsection (5) while deciding what other action (if any) should be taken in relation to the student under this section.
- (8) If the student is suspended for 7 or more school days in a school term (whether or not consecutive school days), the principal must ensure that the student is given a reasonable opportunity to attend appropriate counselling.
- (9) If the principal of the school excludes a student from the school, the principal must give the registrar written notice of the exclusion.

## **Part 4.4                      Non-government Schools Education Council**

### **Division 4.4.1              Establishment and membership**

#### **106                      Establishment of council (non-government)**

The Non-government Schools Education Council (in this part called the *council*) is established.

#### **107                      Functions of council (non-government)**

The functions of the council are—

- (a) to advise the Minister on any aspect of non-government schooling; and
- (b) when asked by the Minister under this paragraph, to inquire into and give advice to the Minister on any aspect of non-government schooling; and
- (c) to meet with the Government Schools Education Council to discuss matters of mutual interest; and
- (d) to exercise any other function given to the council under this Act or any other Territory law.

*Note*            The Minister must present a copy of any advice given under s 107 (a) or (b) to the Legislative Assembly (see s 118A).

#### **108                      Membership of council (non-government)**

The council consists of the members appointed under section 109.

## 109 Members of council (non-government)

- (1) The Minister must appoint the following members of the council:
- (a) a chairperson;
  - (b) 4 people who, in the Minister's opinion, represent the views of the general community (the *community members*);
  - (c) 6 people who, in the Minister's opinion, represent the views of non-government school education (the *education members*).

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

*Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (2) For subsection (1) (c), the Minister must appoint—
- (a) 3 education members chosen from nominations of organisations representing Catholic schools; and
  - (b) 1 education member chosen from nominations of organisations representing non-Catholic independent schools; and
  - (c) 1 education member chosen from nominations of the non-government school union; and
  - (d) 1 education member chosen from nominations of organisations representing parent associations of non-government schools.

## 110 Deputy chairperson of council (non-government)

- (1) The members of the council must, whenever necessary, elect another member to be deputy chairperson.
- (2) The council must tell the Minister of the election of the member as deputy chairperson.

**111 Term of appointment to council (non-government)**

- (1) A member of the council is to be appointed for a term not longer than 3 years.
- (2) The instrument appointing, or evidencing the appointment of, a member of the council must state whether the person is appointed as chairperson or a community or education member.

*Note* A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

**112 Ending of appointment to council (non-government)**

- (1) The Minister may end the appointment of a member of the council—
  - (a) for misbehaviour; or
  - (b) for contravening section 117 (Disclosure of interests by members of council (non-government)).
- (2) The Minister may also end the appointment of an education member if satisfied that the person no longer represents the views of the organisation from which the person was chosen.

*Note* A person's appointment also ends if the person resigns (see Legislation Act s 210).

**113 Conditions of appointment generally of council (non-government) members**

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

## **114 Arrangements for staff**

- (1) The council (non-government) may arrange with the director-general to use public servants in the administrative unit under the director-general's control.

*Note* The director-general means the director-general of the administrative unit responsible for this section (see Legislation Act, s 163 (References to a director-general or the director-general)). Administrative units are established under the administrative arrangements (see *Public Sector Management Act 1994*, s 13).

- (2) The *Public Sector Management Act 1994* applies to the management by the council (non-government) of public servants the subject of an arrangement under subsection (1).

## **Division 4.4.2 Proceedings of council (non-government)**

### **115 Time and place of meetings of council (non-government)**

- (1) The council meets at the times and places it decides.
- (2) However, the council must meet at least twice a year.

### **116 Proceedings of council (non-government)**

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

### **117 Disclosure of interests by members of council (non-government)**

- (1) This section applies to a member of the council if—
  - (a) the member has a direct or indirect financial interest in an issue being considered, or about to be considered, by the council; and



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

### **Division 4.4.3      Other provisions relating to council (non-government)**

#### **118      Minister to seek advice**

- (1) Before deciding the budget priorities for non-government schools each year, the Minister must ask for, and consider the advice of, the Non-government Schools Education Council.
- (2) This section does not limit the matters that the Minister may take into account in deciding the budget priorities for non-government schools.

**118A Minister to present advice of council (non-government)**

The Minister must present a copy of advice given to the Minister under section 107 (a) or (b) (Functions of council (non-government)) to the Legislative Assembly within 6 sitting days after the day it is given to the Minister.

## **Part 4.5                      Other provisions**

### **Division 4.5.1              Authorised persons (non-government)**

#### **119                      Appointment of authorised persons (non-government)**

- (1) The director-general may appoint a person to be an authorised person (non-government) for this chapter or a provision of this chapter.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) The regulations may prescribe 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—
- (a) the person is an Australian citizen or a permanent resident of Australia; and
  - (b) the director-general is satisfied that the person is a suitable person to be appointed, having regard in particular to—
    - (i) whether the person has any criminal convictions; and
    - (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.
- (4) To remove any doubt, a person may be both an authorised person (government) and an authorised person (non-government).

## **120 Identity cards for authorised persons (non-government)**

- (1) The director-general must give an authorised person (non-government) an identity card that states the person is an authorised person (non-government) for this chapter, or stated provisions of this chapter, and shows—
  - (a) a recent photograph of the person; and
  - (b) the name of the person; and
  - (c) the date of issue of the card; and
  - (d) an expiry date for the card; and
  - (e) anything else prescribed under the regulations.
- (2) A person who ceases to be an authorised person (non-government) must return his or her identity card to the director-general as soon as practicable, but within 21 days after the day the person ceases to be an authorised person.

Maximum penalty: 1 penalty unit.

- (3) An offence against subsection (2) is a strict liability offence.

## **Division 4.5.2 Inspection powers for non-government schools**

### **121 Power not to be exercised before identity card shown etc**

- (1) An authorised person (non-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.
- (2) An authorised person (non-government) may not remain in a non-government school entered under this division if, when asked by the principal, the authorised person does not show his or her identity card.

**122 Entry to non-government schools for inspections**

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

**123 Entry to non-government schools with consent**

- (1) An authorised person (non-government) may enter a non-government school at any other time if the principal of the school consents to the entry.
- (2) An authorised person (non-government) may, without the principal's consent, enter the non-government school to ask for consent to enter the school.

**124 Consent to entry**

- (1) This section applies if an authorised person (non-government) intends to ask the principal of a non-government school to consent to the authorised person entering the school.
- (2) Before asking for the consent, the authorised person (non-government) must tell the principal—
  - (a) the reason for the entry; and
  - (b) that the principal is not required to consent.
- (3) If the consent is given, the authorised person (non-government) must ask the principal to sign an acknowledgment of the consent.
- (4) The acknowledgment must state that—
  - (a) the principal was told—
    - (i) the reason for the entry; and
    - (ii) that the principal is not required to consent; and

- (b) the principal gives an authorised person (non-government) consent to enter the school and exercise powers under this chapter; and
  - (c) the time and date the consent was given.
- (5) If the principal signs an acknowledgment of consent, the authorised person (non-government) must immediately give a copy to the principal.
- (6) A court may assume that the principal did not consent if—
- (a) a question arises, in a proceeding in the court, whether the principal consented to the authorised person (non-government) entering the school under this chapter; and
  - (b) an acknowledgment under this section is not produced in evidence for the entry; and
  - (c) it is not proved that the principal consented to the entry.

## **125 Powers on entry**

An authorised person (non-government) who enters a non-government school under section 122 (Entry to non-government schools for inspections) or section 123 (Entry to non-government schools with consent) may inspect the school or anything in it (including the register of enrolments and attendances).

## **Chapter 5            Home education**

### **Part 5.1            General**

#### **128            Principles on which ch 5 based**

The following are the principles on which this chapter is based:

- (a) parents have the right to choose a suitable educational environment for their children;
- (b) there is a diversity of religious and educational philosophies held by parents providing home education for their children;
- (c) the diversity of educational philosophies reflects the diversity of preferences of parents for particular forms of education for their children;
- (d) home education is committed to—
  - (i) offering a broad range of opportunities that foster in each child the development of the child's unique spiritual, emotional, physical, social and intellectual being; and
  - (ii) valuing the individual needs, interests and aptitudes of each child; and
  - (iii) preparing each child to become an independent and effective local and global citizen.

## Part 5.2 Registration—home education

### 129 Meaning of *home education*

In this Act:

*home education*, in relation to a child, means education conducted by 1 or both of the child's parents from a home base.

### 130 Provisional registration for home education

- (1) The parents of a child may apply, in writing, to the director-general for registration of the child for home education.

*Note* If a form is approved under s 154 for the application, the form must be used.

- (2) On receiving an application under subsection (1), the director-general must provisionally register the child for home education.
- (3) Provisional registration for home education ends—
  - (a) 6 months after the day the provisional registration begins; or
  - (b) if the child is registered sooner under section 131 (3)—on the day the child is registered.

### 131 Registration for home education

- (1) This section applies if a child is provisionally registered for home education under section 130.
- (2) Also, this section applies if—
  - (a) the parents of a child apply in writing to the director-general for registration for home education; and
  - (b) immediately before the application, the child was registered or approved (however described) under the law of a State or another Territory for home education.



- (3) The director-general may register the child for home education for a period of not longer than 2 years if satisfied that the conditions for registration will be complied with.
- (4) To decide whether the conditions for registration will be complied with, an authorised person (government) may inspect any education programs, materials or other records proposed to be used for the home education.

### **132 Conditions of registration for home education**

The registration of a child for home education is subject to the following conditions:

- (a) the parents of the child are to provide high-quality education for the child;
- (b) the parents of the child must document the educational opportunities offered by the parents to their child and the strategies they use to encourage their child to learn;
- (c) the parents of the child must make available for inspection on request by the director-general any education programs, materials or other records used for the home education.

### **133 Registration of child**

If the director-general approves the registration of a child for home education, the director-general must—

- (a) enter the particulars prescribed under the regulations in the home education register kept under section 139 (Home education register); and
- (b) give the parents of the child a certificate of registration for the child.

**134 Period of registration**

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

**135 Cancellation of registration for home education**

- (1) The director-general may cancel the registration of a child for home education if the director-general is satisfied on reasonable grounds that a parent has contravened a condition of the registration.
- (2) Before cancelling registration, the director-general must give the parents a written notice—
  - (a) stating the grounds on which the director-general proposes to cancel the registration; and
  - (b) stating the facts that, in the director-general's opinion, establish the grounds; and
  - (c) telling the parents that they may, within 30 days beginning the day after the day they receive the notice, give a written response to the director-general about the matters in the notice.
- (3) In deciding whether to cancel registration, the director-general must consider any response given to the director-general in accordance with subsection (2) (c).
- (4) However, the director-general must not cancel the registration if satisfied that—
  - (a) the parents have demonstrated that the contravention has been rectified and that they will comply with the conditions of the registration; and
  - (b) it is not otherwise in the public interest that the registration be cancelled.
- (5) The director-general must give the parents written notice of the decision.

- (6) Cancellation of registration takes effect on the day when notice of the cancellation is given to the parents or, if the notice states a later date of effect, that date.

**136 Certificate of registration for home education**

A certificate of registration for home education must state—

- (a) the name of the child registered for home education; and
- (b) the names of the child's parents; and
- (c) the address of the home base from which the home education will be carried out; and
- (d) the period of registration; and
- (e) the conditions of registration; and
- (f) any other particulars prescribed under the regulations.

**137 Renewal of registration for home education**

- (1) The parents of a child who is registered for home education under this part may apply in writing to the director-general for renewal of the registration.

*Note* If a form is approved under s 154 for the application, the form must be used.

- (2) The application must be made at least the prescribed period before the registration ends.
- (3) The director-general may renew the registration of the child for home education for a period of not longer than 2 years if satisfied that the conditions for registration will be complied with.
- (4) In this section:

***prescribed period*** means—

- (a) 3 months; or

(b) if the director-general approves a shorter period—that period.

**138 Home education reports**

The parents of a child registered for home education must give the director-general a report about the educational progress of the child once every year.

**139 Home education register**

The director-general must keep a register of children registered for home education.

## Chapter 6            Miscellaneous

### Part 6.1            Notification and review of decisions

#### 140            Definitions—pt 6.1

In this part:

*decision-maker* means—

- (a) for an internally reviewable decision—a person mentioned in schedule 1, column 5 in relation to the decision; or
- (b) for a reviewable decision—
  - (i) the internal reviewer in relation to the decision; or
  - (ii) if the decision is made personally by the Minister or director-general—a person mentioned in schedule 1, column 5 in relation to the decision.

*internally reviewable decision* means a decision (other than a decision made personally by the Minister or director-general) mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

*internal reviewer*—see section 144 (1).

*internal review notice*—see the *ACT Civil and Administrative Tribunal Act 2008*, section 67B (1).

*reviewable decision* means—

- (a) a decision of an internal reviewer in relation to an internally reviewable decision; or
- (b) if a decision is made personally by the Minister or director-general—a decision mentioned in schedule 1, column

3 under a provision of this Act mentioned in column 2 in relation to the decision.

#### **141 Internal review notices**

If a decision-maker makes an internally reviewable decision, the decision-maker must give an internal review notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

*Note 1* The decision-maker must also take reasonable steps to give an internal review notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67B).

*Note 2* The requirements for internal review notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

#### **142 Applications for internal review**

(1) The following may apply to the decision-maker for review of an internally reviewable decision:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

(2) The application must—

- (a) be in writing; and
- (b) state the applicant's name and address; and
- (c) set out the applicant's reasons for making the application.

*Note* If a form is approved under s 154 for the application, the form must be used.

(3) The application must be given to the decision-maker within—

- (a) 28 days after the day the applicant is given the internal review statement; or
- (b) a longer period allowed by the internal reviewer before or after the end of the 28-day period.

**143 Applications not stay reviewable decisions**

Making an application for internal review of an internally reviewable decision does not affect the operation of the decision.

**144 Internal review**

- (1) If application is made for internal review of an internally reviewable decision, the decision-maker must arrange for someone else (the *internal reviewer*) to review the decision.
- (2) The internal reviewer must, within 28 days after the decision-maker receives the application for internal review—
  - (a) confirm the decision; or
  - (b) vary the decision; or
  - (c) set aside the decision and substitute its own decision.
- (3) If the decision is not varied or set aside within the 28-day period, the decision is taken to have been confirmed by the internal reviewer.

**145 Reviewable decision notices**

If a decision-maker makes a reviewable decision, the decision-maker must give a reviewable decision notice to—

- (a) for a decision in relation to an internally reviewable decision—each entity that is given an internal review notice; or
- (b) for a decision made personally by the Minister or director-general—each entity mentioned in schedule 1, column 4 in relation to the decision.

*Note 1* The decision-maker must also take reasonable steps to give a reviewable decision notice to anyone whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

*Note 2* The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

**145A      Applications to ACAT**

The following may apply to the ACAT for review of a reviewable decision:

- (a) an entity mentioned in schedule 1, column 4;
- (b) any other person whose interests are affected by the decision.

*Note*      If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.



## **Part 6.2 Other provisions**

### **146 Preschools**

In exercising functions in relation to a government preschool, the director-general 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.

### **146A Student transfer register**

- (1) The director-general must establish procedures for recording the transfer of students between schools in the ACT.
- (2) The principal of a school must comply with any procedures for recording the transfer of students to and from the school that the director-general—
  - (a) establishes under subsection (1); and
  - (b) notifies to the principal.
- (3) In this section:

*school* means a government school or non-government school.

### **147 Offences on school premises**

- (1) A person must not trespass on school premises.  
Maximum penalty: 5 penalty units.
- (2) A person commits an offence if the person behaves in an offensive or disorderly way on school premises.  
Maximum penalty: 10 penalty units.
- (3) A person commits an offence if the person—
  - (a) is on school premises; and

(b) is directed to leave the premises by a police officer, the principal of the school or a person authorised by the principal; and

(c) fails to leave the premises in accordance with the direction.

Maximum penalty: 10 penalty units.

(4) An offence against this section is a strict liability offence.

(5) In this section:

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

#### **148 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.

#### **149 Notification of parents**

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

#### **150 Minister may grant scholarships etc**

(1) The Minister may give bursaries, exhibitions, free places, prizes, scholarships or other forms of assistance or reward to be used for—

(a) the benefit of a student at a government school, or at a college or university in the ACT; or

- (b) the benefit of a government school, or a college or university in the ACT; or
- (c) a child registered for home education in the ACT.

**Example for par (b)**

a fund to provide for a teacher with particular skills to teach at a particular government school

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) To remove any doubt, this section does not appropriate public money.

**151 Gifts and donations**

- (1) This section applies if the Minister is satisfied that a condition attached to, or a purpose of, a gift or bequest of property to the Territory on trust for educational purposes (the *original trust*) is inappropriate, impracticable, or impossible to comply with.
- (2) The Minister may declare the property the subject of the original trust is subject to another trust.
- (3) The declaration must state the purposes of the other trust.
- (4) In making the declaration, the Minister must ensure that the property is dealt with as nearly as is practicable for the purposes for which it was held immediately before the declaration, except so far as it is inappropriate, impracticable, or impossible to do so.
- (5) When the declaration commences, the original trust ceases and the property is taken to be held by the Territory in trust for the purposes stated in the declaration.
- (6) A declaration is a notifiable instrument.

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

**152 Education trust fund**

- (1) The Minister must keep and administer a fund called the education trust fund.
- (2) The assets of the fund may only be used in accordance with this section.
- (3) The director-general must open and maintain under the *Financial Management Act 1996*, section 51 (Directorate trust banking accounts) a trust account with an authorised deposit-taking institution (the *education trust account*) to be used only for the fund.
- (4) The account consists of—
  - (a) money held by the Territory in trust in relation to anything mentioned in section 150 (Minister may grant scholarships etc); and
  - (b) any other money that may be lawfully paid into the fund.
- (5) The fund may be used only for the following purposes:
  - (a) promoting education;
  - (b) giving bursaries, exhibitions, free places, prizes, scholarships or other forms of assistance or reward for a benefit mentioned in section 150;
  - (c) any other purpose prescribed under the regulations.

**153 Notices of intention under former education Act to conduct schools at additional educational levels**

- (1) This section applies in relation to a school if—
  - (a) before 27 November 2003, a person gave the registrar a notice of intention under the former education Act, section 22 (1) (Provisional registration) in relation to the school; and

- (b) the notice related to the conduct of the school at an additional educational level; and
  - (c) the school was registered under the former education Act, section 23 immediately before the commencement of this section.
- (2) For section 89 (1) (a), the proprietor of the school is taken to have in-principle approval under section 84 to apply to operate the school at the additional educational level.
  - (3) For section 89 (1) (c), and despite section 84 (8), the in-principle approval is taken to lapse on 31 December 2014.
  - (4) In this section:
    - former education Act* means the *Education Act 1937* (repealed).
    - registrar*—see the former education Act, section 5.
  - (5) This section expires on 1 January 2015.

**153A Evidence—certificate signed by principal etc**

- (1) This section applies in relation to a proceeding for an offence against this Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (2) A certificate that appears to be signed by the principal of a government school, the principal of a non-government school, the person giving an approved educational course (government) or the person giving an approved educational course (non-government) and that states any of the following matters, is evidence of the matters:
  - (a) that a stated child was or was not enrolled at the school or course;
  - (b) that a stated child did or did not attend the school or course.

- (3) A certificate that appears to be signed by the registrar (however described) of an education provider or training alternative provider and that states any of the following matters, is evidence of the matters:
  - (a) that a stated child was or was not enrolled with the provider;
  - (b) that a stated child did or did not attend the provider.
- (4) A certificate that appears to be signed by a child's employer or purported employer in relation to an employment alternative and that states any of the following matters, is evidence of the matters:
  - (a) that a stated child was or was not employed with the employer or purported employer;
  - (b) that a stated child worked for stated hours.
- (5) A certificate mentioned in this section may state a matter by reference to a date or period.

#### **154      Approved forms**

- (1) The Minister may approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.

*Note*      For other provisions about forms, see Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

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

#### **155      Regulation-making power**

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

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

- (2) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

## Chapter 9 Transitional—Education (Participation) Amendment Act 2009

### 300 Meaning of *amending Act*—ch 9

In this chapter:

*amending Act* means the *Education (Participation) Amendment Act 2009*.

### 301 Application of amending Act

- (1) The amendments made by the amending Act do not apply in relation to a child if on 1 January 2010—
  - (a) the child is at least 15 years old; and
  - (b) the child is not—
    - (i) enrolled at a school; or
    - (ii) registered for home education (however described) in the ACT or elsewhere.
- (2) However, the amendments made by the amending Act apply in relation to the child if after 1 January 2010 the child is—
  - (a) enrolled at a school; or
  - (b) registered for home education (however described) in the ACT or elsewhere.
- (3) In this section:

*school* means—

  - (a) a government school; or
  - (b) a non-government school; or



- (c) a school (however described) under the law of a State, another Territory or a foreign country.

### **302 Transitional regulations**

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the amending Act.
- (2) A regulation may modify this chapter (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this chapter.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

### **303 Expiry—ch 9**

- (1) This chapter expires 2 years after the day it commences.
- (2) This chapter (other than section 302) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

## Schedule 1 Reviewable decisions

(see pt 6.1)

column 1 item	column 2 section	column 3 decision	column 4 entity	column 5 decision-maker
1	12A	issue exemption certificate for shorter period than applied for	applicant	director-general
2	12A	issue exemption certificate exempting child from full-time participation requirement— participation stated in certificate	applicant	director-general
3	12A	refuse to issue exemption certificate	applicant	director-general
4	12C	issue exemption certificate subject to condition	applicant	director-general
5	13	revoke exemption certificate	child's parents	director-general
6	14A	issue approval statement for shorter period than applied for	applicant	director-general

column 1 item	column 2 section	column 3 decision	column 4 entity	column 5 decision-maker
7	14A	issue approval statement approving other than full-time participation— participation stated in statement	applicant	director-general
8	14A	refuse to issue approval statement	applicant	director-general
9	14C (4)	issue approval statement subject to condition	applicant	director-general
10	15A	revoke approval statement	child's parents	director-general
11	36	suspend, transfer or exclude student	parents of student	director-general
12	84 (5)	refuse to give in-principle approval	applicant for in-principle approval	Minister
13	86 (5)	direct registrar to refuse to provisionally register non-government school	applicant for provisional registration of school	Minister

column 1 item	column 2 section	column 3 decision	column 4 entity	column 5 decision-maker
14	88 (3)	direct registrar to register non-government school for shorter period than applied for	applicant for registration of school	Minister
15	88 (5)	direct registrar to refuse to register non-government school	applicant for registration of school	Minister
16	88B (6)	direct registrar to refuse to register non-government school at additional campus	applicant for registration of additional campus	Minister
17	90 (6)	direct registrar to refuse to register non-government school at additional educational level	applicant of registration at additional educational level	Minister
18	95 (1)	direct registrar to cancel provisional registration or registration of non-government school	entity that has registration cancelled	Minister

column 1 item	column 2 section	column 3 decision	column 4 entity	column 5 decision-maker
19	97 (3)	direct registrar to renew registration of non-government school for shorter period than period applied for	applicant for renewal of registration	Minister
20	97 (5)	direct registrar to refuse to renew registration of non-government school	applicant for renewal of registration	Minister
21	131 (3)	refuse to register child for home education	parents of child	director-general
22	131 (3)	register child for home education for less than 2 years	parents of child	director-general
23	135 (1)	cancel registration of child for home education	parents of child	director-general
24	137 (3)	refuse to renew registration of child for home education	parents of child	director-general

**Schedule 1**      Reviewable decisions

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<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 decision</b>	<b>column 4 entity</b>	<b>column 5 decision-maker</b>
25	137 (3)	renew registration of child for home education for shorter period than period applied for	parents of child	director-general

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## Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1 defines the following terms:

- ACAT
- ACT
- administrative unit
- appoint
- child
- contravene
- daily newspaper
- director-general (see s 163)
- exercise
- fail
- financial year
- foreign country
- function
- reviewable decision notice
- State.

***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 43 (Composition of school boards of school-related institutions and other schools in special circumstances) applies—see section 41 (Composition of school boards generally); or
- (b) for the school board of a small school, other than a school to which section 43 (Composition of school boards of school-related institutions and other schools in special circumstances) applies—see section 42 (Composition of school boards of small schools); or

(c) for the Government Schools Education Council—see section 56 (Membership of council (government)).

**approval statement**, for division 2.4.2 (Approval to participate in training and employment alternatives)—see section 13D.

**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 31 (Approved educational courses for students at government schools).

**approved educational course (non-government)** means an educational course approved under section 81 (Approved educational courses for students 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 67 (Appointment of authorised persons (government)).

**authorised person (non-government)** means a person who is an authorised person (non-government) under section 119 (Appointment of authorised persons (non-government)).

**board 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 43 (Composition of school boards of school-related institutions and other schools in special circumstances) applies—see section 41 (Composition of school boards generally); or
- (b) for a school board of a small school, other than a school to which section 43 (Composition of school boards of school-related institutions and other schools in special circumstances)



applies—see section 42 (Composition of school boards of small schools).

*carer*—see section 6.

*community member*—

- (a) for part 3.5 (Government Schools Education Council)—see section 57 (Appointed members of council (government)); and
- (b) for part 4.4 (Non-government Schools Education Council)—see section 109 (Members of council (government)).

*completes year 10*—see section 9B.

*completes year 12*—see section 9C.

*compliance notice*, for chapter 2 (Compulsory education)—see section 16B.

*compulsory education age*, for chapter 2 (Compulsory education)—see section 9.

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

*council*—

- (a) for part 3.5—means the Government Schools Education Council; and
- (b) for part 4.4—means the Non-Government Schools Education Council.

*council (government)*, for part 3.5—means the Government Schools Education Council.

*council (non-government)*, for part 4.4—means the Non-government Schools Education Council.

*educational course* means a course of teaching and learning directed toward acquiring a particular area of knowledge and skills.

***education course***—see section 9A.

***education member***—

- (a) for part 3.5 (Government Schools Education Council)—see section 57 (Appointed members of council (government)); and
- (b) for part 4.4 (Non-government Schools Education Council)—see section 109 (Members of council (government)).

***education provider***—see section 9A.

***employment alternative***—see section 13B.

***exclusion***—

- (a) of a student from all government schools—means preventing the student from continuing to be enrolled or being re-enrolled at any government school; and
- (b) of a student from all Catholic systemic schools—means preventing the student from continuing to be enrolled or being re-enrolled at any Catholic systemic school; and
- (c) of a student from a non-government school—means preventing the student from continuing to be enrolled or being re-enrolled at the non-government school.

***exemption certificate***, for chapter 2 (Compulsory education)—see section 11H (Exemption certificate—application).

***full-time participation***—

- (a) in an education course, for division 2.2.2 (Participation requirement)—see section 10C; and
- (b) in a training or employment alternative, for part 2.4 (After year 10—training and employment alternatives)—see section 13C.

***full-time participation requirement***, for part 2.3 (Exemption certificates)—see section 11G.

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**government school** means—

- (a) except for part 3.4 (School boards of government schools)—a school, preschool or school-related institution established under section 20 (Establishing government schools etc); and
- (b) for part 3.4—a school or school-related institution established under section 20.

**half-year**, for part 3.4 (School boards of government schools)—see section 37.

**home education**—see section 129.

**information notice**, for chapter 2 (Compulsory education)—see section 11C.

**in-principle approval**—see section 83 (Applications for in-principle approval for proposed registration).

**internally reviewable decision**, for part 6.1 (Notification and review of decisions)—see section 140.

**internal reviewer** for part 6.1 (Notification and review of decisions)—see section 140.

**internal review notice**, for part 6.1 (Notification and review of decisions)—see section 140.

**money**, for part 3.4 (School boards of government schools)—see section 37.

**non-government school** means a registered non-government school.

**parent**—see section 6.

**parents and citizens association**, for part 3.4 (School boards of government schools)—see section 37.

***parents and citizens 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 43 (Composition of school boards of school-related institutions and other schools in special circumstances) applies—see section 41 (Composition of school boards generally); or
- (b) for the school board of a small school, other than a school to which section 43 applies—see section 42 (Composition of school boards of small schools).

***participates***, in an education course, for division 2.2.2 (Participation requirement)—see section 10B.

***prescribed period***, for part 3.4 (School boards of government schools)—see section 37.

***proposed opening day***—see section 83 (3) (Applications for in-principle approval for proposed registration).

***registered non-government school*** means a school that is registered or provisionally registered under part 4.2 (Registration—non-government schools).

***register of enrolments and attendances***, in relation to a person, means the register of enrolments and attendances kept by the person under section 32 (Register of enrolments and attendances for government schools) or section 99 (Register of enrolments and attendances for non-government schools).

***register of non-government schools*** means the register kept by the registrar under section 79.

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

***reviewable decision***, for part 6.1 (Notification and review of decisions)—see section 140.

***school***—

- (a) except for chapter 2, part 3.4, chapter 4 and part 6.2—means a school or school-related institution established under section 20 (Establishing government schools etc); and
- (b) for chapter 2 (Compulsory education) and part 6.2 (Other provisions)—means a government school or non-government school; and
- (c) for part 3.4 (Schools boards of government schools)—see section 37; and
- (d) for chapter 4 (Non-government schools)—see section 74.

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

***school-related institution***—see section 20 (Establishing government schools etc).

***small school***, for part 3.4 (School boards of government schools)—see section 37.

***staff***, of a school, means the principal and teachers of, and other people employed at, the school.

***staff 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 43 (Composition of school boards of school-related institutions and other schools in special circumstances) applies—see section 41 (Composition of school boards generally); or
- (b) for the school board of a small school, other than a school to which section 43 applies—see section 42 (Composition of school boards of small schools).

***student***, for part 3.4 (School boards of government schools)—see section 37.

***student member***, for the school board of a government school, other than a small school, a school-related institution or another school to which section 43 (Composition of school boards of school-related institutions and other schools in special circumstances) applies—see section 41.

***training alternative***—see section 13A.

***training alternative provider***—see section 13A.

## Endnotes

### 1 About the endnotes

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

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

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

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

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Education Act 2004 A2004-17**

notified LR 8 April 2004

s 1, s 2 commenced 8 April 2004 (LA s 75 (1))

remainder commenced 1 January 2005 (s 2)

as amended by

#### **Education Amendment Act 2006 A2006-28**

notified LR 15 June 2006

s 1, s 2 commenced 15 June 2006 (LA s 75 (1))

remainder commenced 16 June 2006 (s 2)

#### **Education Amendment Act 2006 (No 2) A2006-57**

notified LR 19 December 2006

s 1, s 2 commenced 19 December 2006 (LA s 75 (1))

remainder commenced 20 December 2006 (s 2)

#### **Children and Young People (Consequential Amendments) Act 2008 A2008-20 sch 3 pt 3.12, sch 4 pt 4.14**

notified LR 17 July 2008

s 1, s 2 commenced 17 July 2008 (LA s 75 (1))

s 3 commenced 18 July 2008 (s 2 (1))

sch 3 pt 3.12 commenced 27 October 2008 (s 2 (4) and see Children and Young People Act 2008 A2008-19, s 2 and CN2008-13)

sch 4 pt 4.14 commenced 27 February 2009 (s 2 (5) and see Children and Young People Act 2008 A2008-19, s 2 and CN2008-17 (and see CN2008-13))

#### **ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.33**

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))

sch 1 pt 1.33 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

#### **Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.25**

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

sch 3 pt 3.25 commenced 22 September 2009 (s 2)



**Education (Participation) Amendment Act 2009 A2009-40**

notified LR 17 November 2009

s 1, s 2 commenced 17 November 2009 (LA s 75 (1))

remainder commenced 1 January 2010 (s 2)

**Education Amendment Act 2010 A2010-7**

notified LR 3 March 2010

s 1, s 2 commenced 3 March 2010 (LA s 75 (1))

remainder commenced 4 March 2010 (s 2)

**Statute Law Amendment Act 2010 A2010-18 sch 1 pt 1.6, sch 3 pt 3.4**

notified LR 13 May 2010

s 1, s 2 commenced 13 May 2010 (LA s 75 (1))

sch 1 pt 1.6, sch 3 pt 3.4 commenced 3 June 2010 (s 2)

**Education Amendment Act 2010 (No 2) A2010-22**

notified LR 6 July 2010

s 1, s 2 commenced 6 July 2010 (LA s 75 (1))

remainder commenced 7 July 2010 (s 2)

**Statute Law Amendment Act 2011 A2011-3 sch 3 pt 3.16**

notified LR 22 February 2011

s 1, s 2 commenced 22 February 2011 (LA s 75 (1))

sch 3 pt 3.16 commenced 1 March 2011 (s 2)

**Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.57**

notified LR 30 June 2011

s 1, s 2 commenced 30 June 2011 (LA s 75 (1))

sch 1 pt 1.57 commenced 1 July 2011 (s 2 (1))

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

s 2 om LA s 89 (4)

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

s 6 am A2008-20 amdt 3.26, amdt 4.37

**General principles of Act**

s 7 am A2006-57 s 4, s 5, s 55

**Main objects of Act**

s 8 am A2006-57 s 6, s 7; A2009-40 s 4; pars renum R9 LA

## Endnotes

4 Amendment history

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### **Compulsory education**

ch 2 hdg sub A2009-40 s 5

### **Preliminary—ch 2**

pt 2.1 hdg ins A2009-40 s 5

### **Meaning of *compulsory education age*—ch 2**

s 9 sub A2009-40 s 5

### **Meaning of *education course* and *education provider*—Act**

s 9A ins A2009-40 s 5  
am A2011-22 amdt 1.183

### **Meaning of *completes year 10*—Act**

s 9B ins A2009-40 s 5  
am A2011-22 amdt 1.183

### **Meaning of *completes year 12*—Act**

s 9C ins A2009-40 s 5  
am A2011-22 amdt 1.183

### **Guidelines—certain director-general functions**

s 9D hdg am A2011-22 amdt 1.183  
s 9D ins A2009-40 s 5  
am A2011-22 amdt 1.183, amdt 1.184

### **Compulsory education requirements**

pt 2.2 hdg ins A2009-40 s 5

### **Enrolment, registration and attendance requirements**

div 2.2.1 hdg ins A2009-40 s 5

### **Child of compulsory education age—enrolment and registration requirement**

s 10 am A2006-57 s 8  
sub A2009-40 s 5  
am A2010-18 amdt 1.13; ss renum R11 LA; A2011-3  
amdt 3.183; A2011-22 amdt 1.183, amdt 1.184

### **Child of compulsory education age—school attendance requirement**

s 10A ins A2009-40 s 5  
am A2011-22 amdt 1.183, amdt 1.184

### **Participation requirement**

div 2.2.2 hdg ins A2009-40 s 5

### **Meaning of *participates* in education course—div 2.2.2**

s 10B ins A2009-40 s 5

### **Meaning of *full-time participation* in education course—div 2.2.2**

s 10C ins A2009-40 s 5; A2011-22 amdt 1.184

**Child of compulsory education age—participation requirement**

s 10D ins A2009-40 s 5  
am A2011-22 amdt 1.183, amdt 1.184

**Participation requirement—absence**

s 11 sub A2009-40 s 5

**Participation requirement—suspension**

s 11A ins A2009-40 s 5

**Participation requirement—exclusion**

s 11B ins A2009-40 s 5

**Information requirement**

div 2.2.3 hdg ins A2009-40 s 5

**Giving information notice**

s 11C ins A2009-40 s 5  
am A2011-22 amdt 1.183

**Contents of information notice**

s 11D ins A2009-40 s 5  
am A2011-22 amdt 1.183

**Extension of time for compliance with information notice**

s 11E ins A2009-40 s 5  
am A2011-22 amdt 1.183, amdt 1.184

**Revocation of information notice on compliance**

s 11F ins A2009-40 s 5  
am A2011-22 amdt 1.183

**Exemption certificates**

pt 2.3 hdg ins A2009-40 s 5

**Meaning of *full-time participation requirement*—pt 2.3**

s 11G ins A2009-40 s 5

**Exemption certificate—application**

s 11H ins A2009-40 s 5  
am A2011-22 amdt 1.183

**Exemption certificate—requirement for further information**

s 12 sub A2009-40 s 5  
am A2011-22 amdt 1.183

**Exemption certificate—issue**

s 12A ins A2009-40 s 5  
am A2011-22 amdt 1.183

**Exemption certificate—form**

s 12B ins A2009-40 s 5

## Endnotes

4 Amendment history

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### **Exemption certificate—conditions**

s 12C ins A2009-40 s 5  
am A2011-22 amdt 1.183

### **Exemption certificate—duration**

s 12D ins A2009-40 s 5

### **Exemption certificate—revocation**

s 13 am A2008-20 amdt 4.38  
sub A2009-40 s 5  
am A2011-22 amdt 1.183

### **After year 10—training and employment alternatives**

pt 2.4 hdg ins A2009-40 s 5

### **Definitions—pt 2.4**

div 2.4.1 hdg ins A2009-40 s 5

### **Meaning of *training alternative* and *training alternative provider*—Act**

s 13A ins A2009-40 s 5  
am A2011-22 amdt 1.183

### **Meaning of *employment alternative*—Act**

s 13B ins A2009-40 s 5

### **Meaning of *full-time participation* in training or employment alternative— pt 2.4**

s 13C ins A2009-40 s 5

### **Approval to participate in training and employment alternatives**

div 2.4.2 hdg ins A2009-40 s 5

### **Approval statement—application**

s 13D ins A2009-40 s 5  
am A2011-22 amdt 1.183

### **Approval statement—requirement for further information**

s 14 sub A2009-40 s 5  
am A2011-22 amdt 1.183

### **Approval statement—issue**

s 14A ins A2009-40 s 5  
am A2011-22 amdt 1.183

### **Approval statement—form**

s 14B ins A2009-40 s 5

### **Approval statement—conditions**

s 14C ins A2009-40 s 5  
am A2011-22 amdt 1.183

**Approval statement—compliance requirement**

s 14D ins A2009-40 s 5  
am A2011-22 amdt 1.183, amdt 1.184

**Approval statement—duration**

s 15 sub A2009-40 s 5

**Approval statement—revocation**

s 15A ins A2009-40 s 5  
am A2011-22 amdt 1.183

**Return to education while approval statement in force**

s 15B ins A2009-40 s 5  
am A2011-22 amdt 1.183

**Training and employment alternatives—deemed participation**

div 2.4.3 hdg ins A2009-40 s 5

**Training and employment alternatives—absence**

s 15C ins A2009-40 s 5

**Training alternative—suspension**

s 15D ins A2009-40 s 5

**Training alternative—exclusion**

s 16 sub A2009-40 s 5

**Employment alternative—termination**

s 16A ins A2009-40 s 5

**Compliance notices**

pt 2.5 hdg ins A2009-40 s 5

**Giving compliance notice**

s 16B ins A2009-40 s 5  
am A2011-22 amdt 1.183

**Contents of compliance notice**

s 16C ins A2009-40 s 5  
am A2011-22 amdt 1.183

**Extension of time for compliance with compliance notice**

s 16D ins A2009-40 s 5  
am A2011-22 amdt 1.183, amdt 1.184

**Revocation of compliance notice on compliance**

s 17 am A2006-57 s 9  
sub A2009-40 s 5  
am A2011-22 amdt 1.183

**Offences—parents**

pt 2.6 hdg ins A2009-40 s 5

## Endnotes

4 Amendment history

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### **Contravention of information and compliance notices**

s 17A ins A2009-40 s 5

### **Principles on which ch 3 based**

s 18 am A2006-57 s 55

### **Minister to seek advice**

s 19 reloc and renum as s 66

### **Establishing government schools etc**

s 20 am A2006-28 s 4; A2010-18 amdt 3.4; A2010-22 ss 4-7

### **Independent committee**

s 20A ins A2010-22 s 8

### **Impacts of closing or amalgamating schools**

s 20B ins A2010-22 s 8

### **Operation of government schools**

s 21 am A2011-22 amdt 1.183

### **Investigation of complaints—government schools**

s 22 am A2011-22 amdt 1.183, amdt 1.184

### **Review of government school system**

s 23 am A2011-22 amdt 1.183

### **Review of operation of government schools**

s 24 am A2011-22 amdt 1.183

### **Reporting to parents—government schools**

s 25 am A2006-57 s 55

### **Voluntary financial contributions**

s 27 am A2006-57 s 55

### **Religious education**

s 29 am A2006-57 s 55

### **Curriculum**

s 30 am A2006-57 s 55; A2011-22 amdt 1.183

### **Approved educational courses for students at government schools**

s 31 hdg am A2006-57 s 55

s 31 am A2006-57 s 55; A2011-22 amdt 1.183

### **Keeping records of enrolment and attendances for government schools**

s 33 am A2006-57 s 55

### **Inspection of register of enrolment and attendances for government schools**

s 34 am A2006-57 s 55; A2011-22 amdt 1.183

### **Procedures to encourage school attendance at government schools**

s 35 am A2006-57 s 55

**Suspension, exclusion or transfer of student by director-general**

s 36 hdg am A2006-57 s 55; A2011-22 amdt 1.183  
 s 36 am A2006-57 s 55; A2010-7 s 4; A2011-22 amdt 1.183,  
 amdt 1.184

**Definitions for pt 3.4**

s 37 def *money* am A2011-22 amdt 1.183  
 def *prescribed period* am A2006-57 s 11, s 12

**Functions of school boards etc**

s 39 am A2011-22 amdt 1.183, amdt 1.184

**Declaration of parents and citizens associations in certain circumstances**

s 40 am A2006-57 s 13, s 14; A2011-3 amdt 3.184; A2011-22  
 amdt 1.183, amdt 1.184

**Composition of school boards generally**

s 41 hdg sub A2006-57 s 15  
 s 41 am A2006-57 s 16; A2011-22 amdt 1.183

**Composition of school boards of small schools**

s 42 hdg sub A2006-57 s 17  
 s 42 am A2006-57s 18; A2011-22 amdt 1.183

**Composition of school boards of school-related institutions and other schools in special circumstances**

s 43 hdg sub A2006-57 s 19  
 s 43 am A2006-57 s 20; A2011-3 amdt 3.185; A2011-22  
 amdt 1.183

**Ending of appointment of members of school board**

s 44 am A2011-22 amdt 1.183

**Chairperson and deputy chairperson of school boards**

s 45 am A2011-22 amdt 1.183

**School boards to take part in selection of school principals**

s 46 am A2011-22 amdt 1.183

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

s 47 am A2011-22 amdt 1.183

**Procedures governing proceedings of school boards**

s 48 am A2006-57 s 21

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

s 49 am A2011-22 amdt 1.183

**Protection of members of school boards**

s 49A (prev s 72) reloc and renum as s 49A A2006-57 s 26

**School boards to approve budgets**

s 50 am A2011-22 amdt 1.183

## Endnotes

4 Amendment history

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

s 52 am A2011-22 amdt 1.183

**Functions of council (government)**

s 55 am A2006-57 s 22

**Membership of council (government)**

s 56 am A2011-22 amdt 1.183

**Arrangements for staff**

s 62 am A2011-22 amdt 1.178, amdt 1.183, amdt 1.184

**Time and place of meetings of council (government)**

s 63 am A2011-22 amdt 1.183

**Other provisions relating to council (government)**

div 3.5.3 hdg ins A2006-57 s 23

**Minister to seek advice**

s 66 orig s 66 om A2006-57 s 24  
(prev s 19) reloc and renum as s 66 A2006-57 s 10

**Minister to present advice of council (government)**

s 66A (prev s 73) reloc and renum as s 66A A2006-57 s 27

**Appointment of authorised persons (government)**

s 67 am A2010-18 amdt 1.14; A2011-22 amdt 1.183

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

s 68 am A2011-22 amdt 1.183

**Miscellaneous**

div 3.6.3 hdg om A2006-57 s 25

**Protection of members of school boards**

s 72 reloc and renum as s 49A

**Minister to present advice of council (government)**

s 73 reloc and renum as s 66A

**Minister to seek advice**

s 76 reloc and renum as s 118

**Register of non-government schools**

s 79 sub A2006-57 s 29  
am A2011-22 amdt 1.183

**Approved educational courses for students at non-government schools**

s 81 hdg am A2006-57 s 55  
s 81 am A2006-57 s 55

**Schools to be registered**

s 82 am A2006-57 s 30, s 55; ss renum R4 LA



**Applications for in-principle approval for proposed registration**

s 83 am A2006-57 s 31, s 32; pars renum R4 LA; A2009-20  
amdt 3.63; A2010-18 amdt 1.15; A2011-3 amdt 3.186;  
A2011-22 amdt 1.183

**Deciding in-principle applications**

s 84 am A2006-57 s 33, s 34; ss renum R4 LA; A2011-3  
amdt 3.187; A2011-22 amdt 1.183

**Application for provisional registration**

s 85 am A2009-20 amdt 3.63; A2010-18 amdt 1.16; A2011-3  
amdt 3.188; A2011-22 amdt 1.183

**Application for registration**

s 87 am A2009-20 amdt 3.63; A2010-18 amdt 1.17; A2011-3  
amdt 3.189; A2011-22 amdt 1.183

**Application for registration at additional campus**

s 88A ins A2006-57 s 35  
am A2009-20 amdt 3.63; A2010-18 amdt 1.18; A2011-3  
amdt 3.190; A2011-22 amdt 1.183

**Registration at additional campus**

s 88B ins A2006-57 s 35

**Application for registration at additional educational levels**

s 89 am A2009-20 amdt 3.63; A2010-18 amdt 1.19; A2011-3  
amdt 3.191; A2011-22 amdt 1.183

**Certificate of provisional registration or registration**

s 92 am A2006-57 s 36

**Application for renewal of registration**

s 96 am A2011-3 amdt 3.192

**Inspection of panel reports for school registration etc**

s 98 am A2006-57 s 37; pars renum R4 LA; A2011-22 amdt 1.183

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

s 100 am A2006-57 s 55

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

s 101 am A2006-57 s 55; A2011-22 amdt 1.183

**Procedures to encourage attendance at non-government schools**

s 102 am A2006-57 s 55

**Reporting to parents—non-government schools**

s 103 am A2006-57 s 55

## Endnotes

4 Amendment history

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### **Suspension, transfer or exclusion of students—Catholic systemic schools**

s 104 hdg sub A2006-57 s 38  
s 104 am A2006-57 s 55; A2010-7 s 5

### **Suspension or exclusion of students—other non-government schools**

s 105 hdg am A2006-57 s 55  
s 105 am A2006-57 s 55

### **Functions of council (non-government)**

s 107 am A2006-57 s 39

### **Arrangements for staff**

s 114 am A2011-22 amdt 1.179, amdt 1.183, amdt 1.184

### **Other provisions relating to council (non-government)**

div 4.4.3 hdg ins A2006-57 s 40

### **Minister to seek advice**

s 118 orig s 118 om A2006-57 s 41  
(prev s 76) reloc and renum as s 118 A2006-57 s 28

### **Minister to present advice of council (non-government)**

s 118A (prev s 127) reloc and renum as s 118A A2006-57 s 44

### **Appointment of authorised persons (non-government)**

s 119 am A2010-18 amdt 1.20; A2011-22 amdt 1.183

### **Identity cards for authorised persons (non-government)**

s 120 am A2011-22 amdt 1.183

### **Miscellaneous**

div 4.5.3 hdg om A2006-57 s 42

### **Inspection of register of non-government schools**

s 126 om A2006-57 s 43

### **Minister to present advice of council (non-government)**

s 127 reloc and renum as s 118A

### **Provisional registration for home education**

s 130 sub A2006-57 s 45  
am A2011-3 amdt 3.193; A2011-22 amdt 1.183

### **Registration for home education**

s 131 am A2006-57 s 46; A2011-22 amdt 1.183

### **Conditions of registration for home education**

s 132 am A2011-22 amdt 1.183

### **Registration of child**

s 133 am A2006-57 s 47, s 48; A2011-22 amdt 1.183

### **Cancellation of registration for home education**

s 135 am A2011-22 amdt 1.183, amdt 1.184

**Renewal of registration for home education**

s 137 am A2011-3 amdt 3.194; A2011-22 amdt 1.183

**Home education reports**

s 138 am A2011-22 amdt 1.183

**Home education register**

s 139 am A2011-22 amdt 1.183

**Notification and review of decisions**

pt 6.1 hdg sub A2008-37 amdt 1.131

**Definitions—pt 6.1**

s 140 sub A2008-37 amdt 1.131  
def **decision-maker** ins A2008-37 amdt 1.131  
am A2011-22 amdt 1.183  
def **internally reviewable decision** ins A2008-37 amdt 1.131  
am A2011-22 amdt 1.183  
def **internal reviewer** ins A2008-37 amdt 1.131  
def **internal review notice** ins A2008-37 amdt 1.131  
def **reviewable decision** ins A2008-37 amdt 1.131  
am A2011-22 amdt 1.183

**Internal review notices**

s 141 sub A2008-37 amdt 1.131

**Applications for internal review**

s 142 sub A2008-37 amdt 1.131

**Applications not stay reviewable decisions**

s 143 sub A2008-37 amdt 1.131

**Internal review**

s 144 sub A2008-37 amdt 1.131

**Reviewable decision notices**

s 145 sub A2008-37 amdt 1.131  
am A2011-22 amdt 1.183

**Applications to ACAT**

s 145A ins A2008-37 amdt 1.131

**Preschools**

s 146 am A2011-22 amdt 1.183

**Student transfer register**

s 146A ins A2009-40 s 6  
am A2011-22 amdt 1.183

**Notification of parents**

s 149 am A2006-57 s 55

## Endnotes

4 Amendment history

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### **Gifts and donations**

s 151 am A2011-3 amdt 3.195

### **Education trust fund**

s 152 am A2011-22 amdt 1.180, amdt 1.183

### **Notices of intention under former education Act to conduct schools at additional educational levels**

s 153 exp 1 January 2015 (s 153 (5))

### **Evidence—certificate signed by principal etc**

s 153A ins A2009-40 s 7

### **Transitional provisions**

ch 7 hdg exp 1 January 2006 (s 171)

### **Assets and liabilities of former authority**

pt 7.1 hdg exp 1 January 2006 (s 171)

### **Meaning of former authority**

s 156 exp 1 January 2006 (s 171)

### **Vesting of assets and liabilities of former authority in Territory**

s 157 exp 1 January 2006 (s 171)

### **Evidentiary certificate for vested assets and liabilities**

s 158 exp 1 January 2006 (s 171)

### **Registration of changes in title to certain assets**

s 159 exp 1 January 2006 (s 171)

### **Proceedings and evidence in relation to vested assets and liabilities**

s 160 exp 1 January 2006 (s 171)

### **General savings**

pt 7.2 hdg exp 1 January 2006 (s 171)

### **Interpretation**

div 7.2.1 hdg exp 1 January 2006 (s 171)

### **Definitions for pt 7.3**

s 161 exp 1 January 2006 (s 171)

### **Former authority Act**

div 7.2.2 hdg exp 1 January 2006 (s 171)

### **Existing schools etc**

s 162 exp 1 January 2006 (s 171)

### **Name of schools, institutions and services**

s 163 exp 1 January 2006 (s 171)

### **School boards**

s 164 exp 1 January 2006 (s 171)

**Parents and citizens associations**

s 165 exp 1 January 2006 (s 171)

**Members of school boards**

s 166 exp 1 January 2006 (s 171)

**Former education Act**

div 7.2.3 hdg exp 1 January 2006 (s 171)

**Exemption certificates**

s 167 exp 1 January 2006 (s 171)

**Existing registered and provisionally registered schools**

s 168 exp 1 January 2006 (s 171)

**Registers**

s 169 exp 1 January 2006 (s 171)

**Miscellaneous**

pt 7.3 hdg exp 1 January 2006 (s 171)

**Modification of ch 7's operation**

s 170 exp 1 January 2006 (s 171)

**Expiry of ch 7**

s 171 exp 1 January 2006 (s 171)

**Declared law for Legislation Act, s 88**

s 172 exp 1 January 2006 (s 171)

**Repeals and consequential amendments**

ch 8 hdg om LA s 89 (3)

**Acts repealed**

s 173 om LA s 89 (3)

**Regulations repealed**

s 174 om LA s 89 (3)

**Legislation amended—sch 2**

s 175 om LA s 89 (3)

**Transitional—Education (Participation) Amendment Act 2009**ch 9 hdg ins A2009-40 s 8  
exp 1 January 2012 (s 303 (1) (LA s 88 declaration applies))**Meaning of amending Act—ch 9**s 300 ins A2009-40 s 8  
exp 1 January 2012 (s 303 (1) (LA s 88 declaration applies))**Application of amending Act**s 301 ins A2009-40 s 8  
exp 1 January 2012 (s 303 (1) (LA s 88 declaration applies))

## Endnotes

4 Amendment history

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### Transitional regulations

s 302 ins A2009-40 s 8  
exp 1 January 2012 (s 303 (1))

### Expiry—ch 9

s 303 ins A2009-40 s 8  
exp 1 January 2012 (s 303 (1) (LA s 88 declaration applies))

### Reviewable decisions

sch 1 sub A2008-37 amdt 1.132  
am A2009-40 s 9; items renum R9 LA; A2011-22 amdt 1.183

### Minister's decisions

sch 1 pt 1.1 am A2006-57 s 50; items renum R4 LA  
om A2008-37 amdt 1.132

### Chief executive's decisions

sch 1 pt 1.2 am A2006-57 s 51, s 55  
om A2008-37 amdt 1.132

### Consequential amendments

sch 2 om LA s 89 (3)

### Dictionary

dict am A2008-37 amdt 1.133, amdt 1.134; A2009-20 amdt 3.64;  
A2009-40 s 10; A2010-18 amdt 1.21; A2011-22 amdt 1.181,  
amdt 1.182  
def **appointed member** am A2006-57 s 52  
def **approval statement** ins A2009-40 s 11  
def **approved educational course (government)** am  
A2006-57 s 55  
def **approved educational course (non-government)** am  
A2006-57 s 55  
def **board appointed member** am A2006-57 s 52  
def **completes year 10** ins A2009-40 s 11  
def **completes year 12** ins A2009-40 s 11  
def **compliance notice** ins A2009-40 s 11  
def **compulsory school age** sub A2009-40 s 12  
def **education course** ins A2009-40 s 13  
def **education provider** ins A2009-40 s 13  
def **employment alternative** ins A2009-40 s 13  
def **exclusion** am A2006-57 s 55  
def **exemption certificate** sub A2009-40 s 14  
def **full-time participation** ins A2009-40 s 15  
def **full-time participation requirement** ins A2009-40 s 15  
def **information notice** ins A2009-40 s 15  
def **internally reviewable decision** ins A2008-37 amdt 1.135  
def **internal reviewer** sub A2008-37 amdt 1.136  
def **internal review notice** ins A2008-37 amdt 1.137

def **parents and citizens member** am A2006-57 s 52  
 def **participates** ins A2009-40 s 15  
 def **proposed opening day** am A2006-57 s 53  
 def **reviewable decision** sub A2008-37 amdt 1.138  
 def **school** am A2009-40 s 16  
 def **school-leaving age** om A2009-40 s 17  
 def **staff member** am A2006-57 s 53  
 def **student member** am A2006-57 s 53  
 def **training alternative** ins A2009-40 s 18  
 def **training alternative provider** ins A2009-40 s 18

## 5 Earlier republications

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

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

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 Jan 2005	1 Jan 2005– 1 Jan 2006	not amended	new Act
R2 2 Jan 2006	2 Jan 2006– 15 June 2006	not amended	commenced expiry
R3 16 June 2006	16 June 2006– 19 Dec 2006	A2006-28	amendments by A2006-28
R4 20 Dec 2006	20 Dec 2006– 26 Oct 2008	A2006-57	amendments by A2006-57
R5 27 Oct 2008	27 Oct 2008– 1 Feb 2008	<u>A2008-37</u>	amendments by A2008-20
R6 2 Feb 2009	2 Feb 2009– 26 Feb 2009	A2008-37	amendments by A2008-37
R7 27 Feb 2009	27 Feb 2009– 21 Sept 2009	A2008-37	amendments by A2008-20

## Endnotes

### 5 Earlier republications

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<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R8 22 Sept 2009	22 Sept 2009– 31 Dec 2009	A2009-20	amendments by A2009-20
R9 1 Jan 2010	1 Jan 2010– 3 Mar 2010	A2009-40	amendments by A2009-40
R10 4 Mar 2010	4 Mar 2010– 2 June 2010	A2010-7	amendments by A2010-7
R11 3 June 2010	3 June 2010– 6 July 2010	A2010-18	amendments by A2010-18
R12 7 July 2010	7 July 2010– 28 Feb 2011	A2010-22	amendments by A2010-22
R13 1 Mar 2011	1 Mar 2011– 30 June 2011	A2011-3	amendments by A2011-3

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