



Australian Capital Territory

# Education Act 2004

A2004-17

Republication No 35

Effective: 1 January 2024 – 31 December 2024

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## 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 January 2024. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 January 2024.

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

### Kinds of republications

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

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

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

### Editorial changes

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

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

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, 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 \$160 for an individual and \$810 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 '*permanent resident*—see the [Australian Citizenship Act 2007](#) (Cwlth), section 5.' means that the term 'permanent resident' is defined in that section and the definition applies to this Act.

*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*

- (1) For this Act, *parent*, of a child—
  - (a) means a person with parental responsibility for the child under the [Children and Young People Act 2008](#), division 1.3.2; and
  - (b) includes an out-of-home carer for the child.
- (2) In this section:

*out-of-home carer*, for a child—see the [Children and Young People Act 2008](#), section 508.

## Part 1.2 General principles and objects

### 7 General principles of Act

- (1) Everyone involved in the administration of this Act, or in the education of children in the ACT, is to apply the following principles:
  - (a) a child learns from birth;
  - (b) the parents of a child are the child's first teachers;
  - (c) every child has a right to receive a high-quality education.
- (2) Without limiting subsection (1) (c), a high-quality education is based on the following principles:
  - (a) a high-quality early childhood education—
    - (i) provides long-term benefits for, and is important for the future wellbeing of, the child; and
    - (ii) should promote the objectives and guiding principles of the national education and care services quality framework under the *Education and Care Services National Law (ACT)*;
  - (b) school education and home education provide a foundation for a democratic society;
  - (c) 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 children who are Aboriginal or Torres Strait Islander people;
- (d) innovation, diversity and opportunity within and among schools should be encouraged;
  - (e) effective quality assurance mechanisms should be applied to school education;
  - (f) government funding should be directed to students through their schools or school system;
  - (g) the partnership between the home, community and educational providers should be recognised;
  - (h) school communities should be given information about the operation of their schools.

*Note* The *Education and Care Services National Law (ACT) Act 2011*, s 6 applies the Education and Care Services National Law set out in the *Education and Care Services National Law Act 2010* (Vic), schedule as if it were an ACT law called the *Education and Care Services National Law (ACT)*.

- (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.
- (5) Sharing of information relating to a child's education and care—
  - (a) allows the child to receive education and care services that are well-coordinated; and
  - (b) enables the best educational outcome for, and promotes the wellbeing of, the child; and
  - (c) facilitates the child's transition between education and care service providers.
- (6) In this section:

*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.

## **8            Main objects of Act**

- (1) The main objects of this Act are—
  - (a) to state the responsibilities of parents and the government in relation to education; and
  - (b) to state the principles on which government and non-government school education and home education are based; and
  - (c) to promote early childhood education by ensuring that every child can access—
    - (i) a high-quality early childhood education; and
    - (ii) the universal 3-year-old preschool, universal 4-year-old preschool or equity-based program; and

- (d) 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
  - (e) to state the circumstances in which school attendance is not required; and
  - (f) to provide for the management of unsafe and noncompliant behaviour of students, including providing for suspension, transfer, expulsion and exclusion of students; and
  - (g) to provide for the operation and governance of government schools; and
  - (h) to provide for the registration of non-government schools, and ensure their compliance with registration standards; and
  - (i) to provide for the registration of children for home education.
- (2) In this section:

***equity-based program*** means a government-funded preschool program delivered to a child on the basis of equity.

**Examples**

targeted 3-year-old initiative, Koori preschools, early entry preschools

***universal 3-year-old preschool*** means a government-funded preschool program attended by a child in the year in which the child is at least 3 years old on 30 April of the year.

***universal 4-year-old preschool*** means a government-funded preschool program attended by a child in the year in which the child is at least 4 years old on 30 April of the year.

## Chapter 1A Early childhood education

### 8A Eligible children may attend government-funded preschool programs

- (1) The purpose of this section is to ensure that every eligible child can receive an early childhood education funded by the government in the 2 years before the child is of compulsory education age.
- (2) An eligible child may enrol in a government-funded preschool program in a year if the child—
  - (a) lives in the ACT; and
  - (b) is at least 3 years old on 30 April in the year.
- (3) However, a provider of a government-funded preschool program may refuse to enrol an eligible child in the preschool program if enrolling the child would breach a condition of the provider's service approval.
- (4) In this section:

***eligible child*** means a child who the director-general is satisfied meets the requirements for being eligible for enrolment in a government-funded preschool program.

***service approval***, of a provider of a government-funded preschool program, see—the *Education and Care Services National Law (ACT)*, section 5 (1).

*Note* The *Education and Care Services National Law (ACT) Act 2011*, s 6 applies the Education and Care Services National Law set out in the *Education and Care Services National Law Act 2010* (Vic), schedule as if it were an ACT law called the *Education and Care Services National Law (ACT)*.

**8B Procedures to encourage attendance at preschool programs delivered by government schools**

- (1) The director-general must, for a preschool program delivered by a government school, set up procedures to encourage attendance at the program by children who are enrolled in the program.
- (2) The procedures must—
  - (a) state that attendance at the program is not compulsory; and
  - (b) state the benefits of a child's regular attendance at the program; and
  - (c) include steps that may be taken to support a child's attendance at the program.

**Example—par (c)**

referring the child's parents to a support service

## Chapter 2            Compulsory education

### Part 2.1            Preliminary—ch 2

#### 9            **Meaning of *compulsory education age***

For this Act, 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 government or non-government school
2	a course of study	a government or non-government 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>National Vocational Education and Training Regulator Act 2011</i> (Cwlth), s 3
4	a VET course under the <i>National Vocational Education and Training Regulator Act 2011</i> (Cwlth), s 3	a registered training organisation under the <i>National Vocational Education and Training Regulator Act 2011</i> (Cwlth), s 3
5	an accredited course under the <i>Tertiary Education Quality and Standards Agency Act 2011</i> (Cwlth)	a registered higher education provider under the <i>Tertiary Education Quality and Standards Agency Act 2011</i> (Cwlth)

## 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.

### 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

- (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.
- (5) In this section:

*AQF* means the Australian Qualifications Framework under the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3.

## **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—school attendance requirement);
  - section 10D (4) (Child of compulsory education age—participation requirement);
  - section 14D (3) (Approval statement—compliance requirement);
  - chapter 5 (Home education).
- (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.
- (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) is of compulsory education age; and
  - (b) is enrolled at a government or non-government 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).

**10AA Student movement register**

- (1) The director-general must keep a register (the *student movement register*) of changes in—
  - (a) the enrolment of students at schools in the ACT; and
  - (b) the registration of students for home education in the ACT.

- 
- (2) The principal of a school must record the information prescribed by regulation in the student movement register for each of the following (a *student movement event*):
- (a) a student is enrolled at the school, having been previously—
    - (i) enrolled at another education provider; or
    - (ii) registered for home education, whether under this Act or a corresponding law;
  - (b) a student's enrolment ends for any of the following reasons:
    - (i) the student is unenrolled from the school;
    - (ii) the student is enrolled at another education provider;
    - (iii) the student is registered for home education;
    - (iv) the school terminates the enrolment contract for the student;
    - (v) the student is transferred, expelled or excluded from the school under chapter 2A (Suspension, transfer, expulsion and exclusion of students).
- (3) The director-general must record the information prescribed by regulation in the student movement register for each of the following events (also a *student movement event*):
- (a) a student is registered for home education, having been previously—
    - (i) enrolled at an education provider; or
    - (ii) registered for home education under a corresponding law;
  - (b) the registration of a student for home education ends.
- (4) Information to be recorded for a student movement event under this section must be recorded within 5 days after the event happens.

(5) In this section:

*corresponding law* means a law of another State under which children are registered for home education.

*Note* *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

### **10AB Student movement register—procedures**

- (1) The director-general must—
  - (a) establish procedures for recording information in the student movement register; and
  - (b) tell principals of schools in the ACT about the procedures.
- (2) A principal of a school who is recording information in the student movement register under section 10AA must comply with the procedures established under subsection (1).

## **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



**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) is of compulsory education age; and
  - (b) is enrolled at an education provider other than a government or non-government 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.

## **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 government or non-government school—the child is not attending the school; or

- (d) if the child is enrolled at an education provider other than a government or non-government 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.

**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.

- (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

## **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.

### **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.

- (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.

**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.

**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 2A      Suspension, transfer, expulsion and exclusion of students

### Part 2A.1      Suspension, transfer, expulsion and exclusion—generally

#### 17B      Meaning of *unsafe or noncompliant* behaviour—ch 2A

- (1) For this chapter, the behaviour of a student at a school is *unsafe or noncompliant* if the behaviour reduces the safety or effectiveness of the learning environment at the school because it—
  - (a) is persistently or disruptively noncompliant; or
  - (b) poses an unacceptable risk to the safety or wellbeing of—
    - (i) another student at the school; or
    - (ii) a member of staff of the school; or
    - (iii) someone else involved in the school’s operation.
- (2) To remove any doubt, a student’s behaviour may be *unsafe or noncompliant* even if the behaviour does not happen on school premises or during school hours.

**Example**

using social media outside school hours to encourage violence against a student at school the next day

#### 17C      Definitions—ch 2A

In this chapter:

*decision-maker*, for a school, means—

- (a) for a government school—the director-general; and

(b) for a Catholic system school—the director of Catholic education; and

(c) for an independent school—the principal of the school.

*delegated principal*, for a government school or Catholic system school, means a principal to whom the decision-maker for the school has delegated their powers under section 17O.

*exclude*—

(a) a student at a government school, means exclude the student from being enrolled at any government school under section 17ZA; or

(b) a student at a Catholic system school, means exclude the student from being enrolled at any Catholic system school under section 17ZF.

*expel*, a student at a school, means expel the student from the school under section 17U.

*reasonable alternative* means an alternative that a person is reasonably able to take considering all relevant matters.

*suspend*, a student at a school, means suspend the student under section 17H.

*transfer*, a student at a government school, means transfer the student from the school to another government school under section 17P.

## 17D Exhausting all reasonable alternatives

If a person is required to exhaust all reasonable alternatives before making a decision under this chapter in relation to a student at a school, the person must—

(a) before making a decision to transfer or expel a student—be satisfied that suspending the student would not be effective or suitable; and

- (b) be satisfied that no other reasonable alternative is likely to be suitable or successful for managing the student's unsafe or noncompliant behaviour.

### **17E Communicating with students and parents**

- (1) This section applies if a person is required to tell a student, or give their parents written notice, about a decision or proposed decision under this chapter.
- (2) The person must apply natural justice and procedural fairness and, in particular, must—
  - (a) ensure the student and their parents are given sufficient information about the decision-making process, in a language and way that the student and their parents can understand, to allow the student and their parents to effectively take part in the decision-making process and have their views heard; and
  - (b) ensure the student has a parent, or someone else chosen by the student, present when taking part in the decision-making process.

### **17F Notification not required in certain circumstances**

- (1) This section applies if a person is required to give a written notice to a parent of a student under this chapter.
- (2) The written notice need not be given if the person is satisfied that—
  - (a) it would not be in the best interests of the student to give the notice; or

**Example**

a court order prevents contact between a student and their parent

- (b) it is not possible or reasonably practicable in the circumstances to give the notice.

**Example**

despite reasonable efforts, contact details for a parent cannot be found



- (3) If the student is an adult, the written notice—
- (a) need not be given to a parent of the student; and
  - (b) must be given to the student.

## Part 2A.2 Suspension

### 17G Suspension to ensure safe and effective learning environment

A decision-maker for a school may suspend a student at the school only for the purpose of ensuring a safe and effective learning environment at the school.

### 17H Suspension

- (1) The decision-maker for a school may suspend a student at the school if satisfied—
- (a) the student has engaged in unsafe or noncompliant behaviour; and
  - (b) the school has exhausted all reasonable alternatives to suspending the student; and
  - (c) it is reasonable to suspend the student considering all the circumstances, including any views of the student and their parents about the proposed suspension.

*Note* **Unsafe or noncompliant** behaviour—see s 17B.  
**Reasonable alternatives**—see s 17C.

- (2) However, the decision-maker must not suspend a student unless—
- (a) for a government school or Catholic system school with a delegated principal—the delegated principal has complied with the requirements for involving the student and their parents in the decision-making process under section 17L; or
  - (b) for a government school or Catholic system school without a delegated principal—the principal of the school recommends the student be suspended; and

- (c) for an independent school—the decision-maker has complied with the requirements for involving the student and their parents in the decision-making process under section 17L.
- (3) The decision-maker for a government school or Catholic system school without a delegated principal may suspend the student as recommended by the principal of the school under section 17K, or subject to any change the decision-maker considers reasonable.

### **17I Suspension—notice**

If the decision-maker for a school suspends a student, the decision-maker must—

- (a) tell the student, and give their parents written notice (a *suspension notice*), about the suspension, including—
  - (i) the grounds for the suspension; and
  - (ii) the length of the suspension; and
  - (iii) how the school intends to support the student to continue their education during the suspension; and
- (b) for a government school or Catholic system school without a delegated principal—tell the principal of the school about the suspension, including any changes made to the principal's recommendation.

### **17J Suspension—length**

- (1) The suspension of a student is for the period, not longer than 20 school days, the decision-maker considers necessary to ensure a safe and effective learning environment at the school.
- (2) A suspension—
  - (a) begins on the later of the following:
    - (i) the day the decision-maker gives a suspension notice to the student's parents;

- (ii) the day stated in the suspension notice; and
- (b) ends on the earlier of the following:
  - (i) the end day stated in the suspension notice;
  - (ii) 20 school days after the suspension begins.
- (3) A suspension must not start immediately after another suspension ends.

**17K Suspension—government and Catholic system schools—principal’s recommendation**

- (1) This section applies to a student at a government school or a Catholic system school without a delegated principal.
- (2) The principal of the school may recommend to the decision-maker for the school that the student be suspended.
- (3) However, the principal must not make a recommendation unless the principal has complied with the requirements for involving the student and their parents in the decision-making process under section 17L.
- (4) The principal’s recommendation must include the following information about the proposed suspension:
  - (a) the grounds for the suspension, including details of—
    - (i) the student’s unsafe or noncompliant behaviour; and
    - (ii) how they have exhausted reasonable alternatives to suspending the student;

*Note* **Unsafe or noncompliant** behaviour—see s 17B.  
**Reasonable alternatives**—see s 17C.

  - (b) the length of the suspension;
  - (c) how the school intends to support the student to continue their education during the period of suspension;

- (d) the steps taken to involve the student and their parents in the decision-making process under section 17L, and any views of the student and their parents about the suspension.
- (5) The principal's recommendation may include any other information the principal considers would assist the decision-maker in deciding whether to suspend the student.

### **17L Suspension—involving student and parents**

- (1) This section applies if—
  - (a) for a government school or Catholic system school with a delegated principal—the delegated principal proposes to suspend a student at the school; or
  - (b) for a government school or Catholic system school without a delegated principal—the principal proposes to recommend the suspension of a student under section 17K; or
  - (c) the principal of an independent school proposes to suspend a student at the school.
- (2) Before taking the proposed action, the principal must take reasonable steps to tell the student, and give their parents written notice, about the proposed suspension, including—
  - (a) the grounds for the suspension including details of—
    - (i) the student's unsafe or noncompliant behaviour; and
    - (ii) how they have exhausted reasonable alternatives to suspending the student; and

*Note*     **Unsafe or noncompliant** behaviour—see s 17B.  
              **Reasonable alternatives**—see s 17C.

  - (b) the length of the suspension; and
  - (c) how the school intends to support the student to continue their education during the suspension; and

- (d) the decision-making process for the suspension, and how the student and their parents may take part in the process and have their views heard.
- (3) However, the principal may take the proposed action before giving the parents written notice if—
- (a) the student’s unsafe or noncompliant behaviour presents an immediate or imminent risk of harm to a person; and
- Examples—behaviour that presents an immediate or imminent risk of harm to a person**
- the student was physically violent to another student
  - the student threatened to be physically violent to a staff member
- (b) the principal tells the student and their parents, orally, about the proposed suspension, including—
- (i) the information mentioned in subsection (2) (a) to (d); and
- (ii) that the suspension starts immediately.
- (4) If the principal takes the proposed action under subsection (3), the principal must, as soon as possible, give the student’s parents written notice about the suspension, including the information mentioned in subsection (2) (a) to (d).
- (5) If a principal takes action under subsection (3) and a student is suspended before any views of the student and their parents about the suspension may be considered, the decision-maker may, after considering the views of the student and their parents, revise the suspension in any way the decision-maker considers reasonable.
- (6) If the decision-maker revises a suspension under subsection (5), the decision-maker must tell the student, and give the student’s parents a revised suspension notice.

**17M Suspension—student’s education and counselling**

- (1) If a student at a school is suspended, the principal of the school must ensure the student is given the materials and support needed to continue their education during the period of suspension.
- (2) If a student at a school is suspended for a total of 7 or more school days in a school term (consecutively or otherwise), the principal of the school must ensure that the student is given a reasonable opportunity to attend counselling.

**17N Suspension—review of student’s circumstances**

- (1) If a student at a school is suspended, the principal of the school must—
  - (a) review any reasonable adjustments in place for the student, including reviewing the way an adjustment is implemented; and
  - (b) make any reasonable adjustments the principal considers would support the student, including changing the way an adjustment is implemented.

- (2) In this section:

*adjustment*—see the [Disability Standards for Education 2005](#) (Cwlth), section 3.3.

*reasonable*, in relation to an adjustment—see the [Disability Standards for Education 2005](#) (Cwlth), section 3.4.

**17O Suspension—government and Catholic system schools—delegation**

The decision-maker for a government school or Catholic system school may delegate their powers under this part in relation to suspending a student at the school to—

- (a) the principal of the school; and

- (b) if the school is a government school—a public servant in the Education Directorate.

**Example—par (b)**

a Director of School Improvement

*Note* For laws about delegations, see the [Legislation Act](#), pt 19.4.



## Part 2A.3 Transfers between government schools

### 17P Transfer

- (1) The director-general may transfer a student at a government school (the *transferring school*) if satisfied—
  - (a) the student has engaged in unsafe or noncompliant behaviour; and
  - (b) the transferring school has exhausted all reasonable alternatives to transferring the student; and
  - (c) it is not in the best interests of 1 or more of the following for the student to remain at the school:
    - (i) the student;
    - (ii) another student;
    - (iii) a member of staff of the school; and
  - (d) it is reasonable to transfer the student considering all the circumstances, including any views of the student and their parents about the proposed transfer.
- (2) However, the director-general must not transfer a student unless the principal of the school recommends the student be transferred.
- (3) The director-general may transfer the student as recommended by the principal, or subject to any change the director-general considers reasonable.
- (4) For subsection (1) (c) (i), the director-general may consider whether the relationship between the student and the school has deteriorated to such an extent that remaining at the school is no longer in the student's best interests.

**17Q Transfer—notice**

If the director-general transfers a student, the director-general must—

- (a) tell the student, and give their parents written notice, about the transfer, including—
  - (i) the grounds for the transfer; and
  - (ii) the school to which the student is to be transferred; and
  - (iii) the day the transfer takes effect; and
- (b) tell the recommending principal about the transfer, including any changes made to the principal’s recommendation; and
- (c) tell the principal of the school to which the student is being transferred about the transfer, including—
  - (i) the grounds for the transfer; and
  - (ii) the school from which the student is being transferred; and
  - (iii) the day the transfer takes effect.

**17R Transfer—principal’s recommendation**

- (1) The principal of a government school may recommend to the director-general that a student at the school be transferred from the school.
- (2) However, the principal may make a recommendation only if the principal has complied with the requirements for involving the student and their parents in the decision-making process under section 17S.
- (3) The principal’s recommendation must include the following information about the proposed transfer:
  - (a) the grounds for the transfer including details of—
    - (i) the student’s unsafe or noncompliant behaviour; and

- (ii) how they have exhausted reasonable alternatives to transferring the student;

*Note* **Unsafe or noncompliant** behaviour—see s 17B.  
**Reasonable alternatives**—see s 17C.

- (b) the school to which the student is to be transferred;
  - (c) the day the transfer is to take effect;
  - (d) the steps taken to involve the student and their parents in the decision-making process under section 17S, and any views of the student and their parents about the transfer.
- (4) The principal's recommendation may include any other information the principal considers would assist the director-general in deciding whether to transfer the student.

## **17S Transfer—involving student and parents**

Before recommending the transfer of a student under section 17R, the principal of a government school must tell the student, and give their parents written notice, about the transfer, including—

- (a) the grounds for the proposed transfer including details of—
  - (i) the student's unsafe or noncompliant behaviour; and
  - (ii) how they have exhausted reasonable alternatives to transferring the student; and

*Note* **Unsafe or noncompliant** behaviour—see s 17B.  
**Reasonable alternatives**—see s 17C.

- (b) the school to which it is proposed the student be transferred; and
- (c) the day the proposed transfer is to take effect; and
- (d) the decision-making process for the proposed transfer, and how the student and their parents may take part in the process and have their views heard.

**17T      Transfer—counselling**

If a student at a government school is transferred, the principal of the school must ensure the student is given a reasonable opportunity to attend counselling.

## Part 2A.4                      **Expulsion from Catholic system schools and independent schools**

### **17U            Expulsion**

- (1) The decision-maker for a Catholic system school or an independent school may expel a student at the school if satisfied—
  - (a) the student has engaged in unsafe or noncompliant behaviour; and
  - (b) the school has exhausted all reasonable alternatives to expelling the student; and
  - (c) it is not in the best interests of 1 or more of the following for the student to remain at the school:
    - (i) the student;
    - (ii) another student;
    - (iii) a member of staff of the school; and
  - (d) it is reasonable to expel the student considering all the circumstances, including any views of the student and their parents about the proposed expulsion.
- (2) However, the decision-maker for a school may expel a student only if—
  - (a) for a Catholic system school—the principal of the school recommends the student be expelled; and
  - (b) for an independent school—the decision-maker has complied with the requirements for involving the student and their parents in the decision-making process under section 17X.

- (3) The decision-maker for a Catholic system school may expel the student as recommended by the principal, or subject to any change the decision-maker considers reasonable.
- (4) For subsection (1) (c) (i), the decision-maker may consider whether the relationship between the student and the school has deteriorated to such an extent that remaining at the school is no longer in the student's best interests.

**17V Expulsion—notice**

If the decision-maker for a Catholic system school or an independent school expels a student, the decision-maker must—

- (a) tell the student, and give their parents written notice, about the expulsion, including—
  - (i) the grounds for the expulsion; and
  - (ii) the day the expulsion takes effect; and
- (b) for a Catholic system school—tell the principal about the expulsion, including any changes made to the principal's recommendation.

**17W Expulsion—Catholic system schools—principal's recommendation**

- (1) This section applies in relation to a student at a Catholic system school.
- (2) The principal of the school may recommend to the decision-maker for the school that the student be expelled.
- (3) However, the principal may make a recommendation only if the principal has complied with the requirements for involving the student and their parents in the decision-making process under section 17X.

- (4) The principal's recommendation must include the following information about the proposed expulsion:
- (a) the grounds for the expulsion, including details of—
    - (i) the student's unsafe or noncompliant behaviour; and
    - (ii) how they have exhausted reasonable alternatives to expelling the student;
- Note*     **Unsafe or noncompliant** behaviour—see s 17B.  
              **Reasonable alternatives**—see s 17C.
- (b) the day the expulsion is to take effect;
  - (c) the steps taken to involve the student and their parents in the decision-making process under section 17X, and any views of the student and their parents about the expulsion.
- (5) The principal's recommendation may include any other information the principal considers would assist the decision-maker in deciding whether to expel the student.

## **17X     Expulsion—involving student and parents**

- (1) This section applies if—
- (a) the principal of a Catholic system school proposes to recommend the expulsion of a student under section 17W; or
  - (b) the principal of an independent school proposes to expel a student at the school.
- (2) Before taking the proposed action, the principal must tell the student, and give their parents written notice, about the following:
- (a) the grounds for the proposed expulsion including details of—
    - (i) the student's unsafe or noncompliant behaviour; and

- (ii) how they have exhausted reasonable alternatives to expelling the student; and

*Note*     **Unsafe or noncompliant** behaviour—see s 17B.  
              **Reasonable alternatives**—see s 17C.

- (b) the day the proposed expulsion is to take effect;
- (c) the decision-making process for the proposed expulsion, and how the student and their parents may take part in the process and have their views heard.

### **17Y     Expulsion—counselling**

If a student at a Catholic system school or an independent school is expelled, the principal of the school must ensure the student is given a reasonable opportunity to attend counselling.



## **Part 2A.5 Excluding a student from a system of schools**

### **Division 2A.5.1 Exclusion—government schools**

#### **17Z Application—div 2A.5.1**

This division applies in relation to a student if the student—

- (a) is enrolled at a government school; and
- (b) is not of compulsory education age.

#### **17ZA Exclusion—government schools**

- (1) The director-general may exclude a student from enrolling at any government school if satisfied—
  - (a) the student has engaged in unsafe or noncompliant behaviour; and
  - (b) the school at which the student is enrolled has exhausted all reasonable alternatives to excluding the student; and
  - (c) it is not in the best interests of 1 or more of the following for the student to be enrolled at any government school:
    - (i) the student;
    - (ii) another student at a government school;
    - (iii) a member of staff of a government school; and
  - (d) it is reasonable to exclude the student considering all the circumstances, including any views of the student and their parents about the proposed exclusion.
- (2) However, the director-general must not exclude a student unless the principal of the school recommends the student be excluded.

- (3) The director-general may exclude the student as recommended by the principal, or subject to any change the director-general considers reasonable.
- (4) For subsection (1) (c) (i), the director-general may consider whether the relationship between the student and the government school system has deteriorated to such an extent that the student's enrolment at any government school is no longer in the student's best interests.

### **17ZB Exclusion—government schools—notice**

If the director-general excludes a student from enrolling at any government school, the director-general must—

- (a) tell the student, and give their parents written notice, about the exclusion, including—
  - (i) the grounds for the exclusion; and
  - (ii) the day the exclusion takes effect; and
- (b) tell the recommending principal about the exclusion, including any changes made to the principal's recommendation.

### **17ZC Exclusion—government schools—principal's recommendation**

- (1) The principal of a government school may recommend to the director-general that a student at the school be excluded from enrolling at any government school.
- (2) However, the principal may make a recommendation only if the principal has complied with the requirements for involving the student and their parents in the decision-making process under section 17ZD.

- (3) The principal's recommendation must include the following information about the proposed exclusion:
- (a) the grounds for the proposed exclusion including details of—
    - (i) the student's unsafe or noncompliant behaviour; and
    - (ii) how they have exhausted reasonable alternatives to excluding the student; and
    - (iii) any previous action taken under this chapter against the student and the behaviour giving rise to the action;
- Note*     *Unsafe or noncompliant* behaviour—see s 17B.  
              *Reasonable alternatives*—see s 17C.
- (b) the day the exclusion is to take effect;
  - (c) the steps taken to involve the student and their parents in the decision-making process under section 17ZD, and any views of the student and their parents about the exclusion.
- (4) The principal's recommendation may include any other information the principal considers would assist the director-general in deciding whether to exclude the student from enrolling at any government school.

### **17ZD     Exclusion—government schools—involving student and parents**

Before recommending the exclusion of a student under section 17ZC, the principal of the government school at which the student is enrolled must tell the student, and give their parents written notice of the following about the proposed exclusion:

- (a) the grounds for the exclusion, including details of—
  - (i) the student's unsafe or noncompliant behaviour; and

- (ii) how they have exhausted reasonable alternatives to excluding the student;

*Note* **Unsafe or noncompliant** behaviour—see s 17B.  
**Reasonable alternatives**—see s 17C.

- (b) the day the exclusion is to take effect;
- (c) options available for the student to continue their education after the exclusion;
- (d) the decision-making process for the exclusion, and how the student and their parents may take part in the process and have their views heard.

### **17ZE Exclusion—government schools—ongoing education and counselling**

If a student at a government school is excluded from enrolling at any government school, the principal of the school at which the student is enrolled must ensure the student is given—

- (a) a reasonable opportunity to attend counselling; and
- (b) information about options to continue their education after the exclusion.

#### **Examples—options for continuing education after exclusion**

- 1 enrolment at a non-government school
- 2 distance education provided by another jurisdiction
- 3 enrolment at a vocational education training organisation

## **Division 2A.5.2 Exclusion—Catholic system schools**

### **17ZF Exclusion—Catholic system schools**

- (1) The director of Catholic education may exclude a student from enrolling at any Catholic system school if satisfied—
  - (a) the student has engaged in unsafe or noncompliant behaviour; and

- (b) the school at which the student is enrolled has exhausted all reasonable alternatives to excluding the student; and
  - (c) it is not in the best interests of 1 or more of the following for the student to be enrolled at any Catholic system school:
    - (i) the student;
    - (ii) another student at a Catholic school;
    - (iii) a member of staff of a Catholic school; and
  - (d) it is reasonable to exclude the student considering all the circumstances, including any views of the student and their parents about the proposed exclusion.
- (2) However, the director must not exclude a student unless the principal of the school recommends the student be excluded.
  - (3) The director may exclude the student as recommended by the principal, or subject to any change the director considers reasonable.
  - (4) For subsection (1) (c) (i), the director may consider whether the relationship between the student and the Catholic school system has deteriorated to such an extent that the student's enrolment at any Catholic system school is no longer in the student's best interests.

### **17ZG Exclusion—Catholic system schools—notice**

If the director of Catholic education excludes a student from enrolling at any Catholic system school, the director must—

- (a) tell the student, and give their parents written notice, about the exclusion, including—
  - (i) the grounds for the exclusion; and
  - (ii) the day the exclusion takes effect; and
- (b) tell the recommending principal about the exclusion, including any changes made to the principal's recommendation.

**17ZH Exclusion—Catholic system schools—principal's recommendation**

- (1) The principal of a Catholic system school may recommend to the director of Catholic education that a student at the school be excluded from enrolling at any Catholic system school.
- (2) However, the principal may make a recommendation only if the principal has complied with the requirements for involving the student and their parents in the decision-making process under section 17ZI.
- (3) The principal's recommendation must include the following information about the proposed exclusion:
  - (a) the grounds for the exclusion including details of—
    - (i) the student's unsafe or noncompliant behaviour; and
    - (ii) how they have exhausted reasonable alternatives to excluding the student; and
    - (iii) any previous action taken under this chapter against the student, including the behaviour giving rise to the action;
  - (b) the day the exclusion is to take effect;
  - (c) the steps taken to involve the student and their parents in the decision-making process under section 17ZI, and any views of the student and their parents about the exclusion.
- (4) The principal's recommendation may include any other information the principal considers would assist the director in deciding whether to exclude the student from enrolling at any Catholic system school.

*Note* **Unsafe or noncompliant** behaviour—see s 17B.  
**Reasonable alternatives**—see s 17C.

**17ZI Exclusion—Catholic system schools—involving student and parents**

Before recommending the exclusion of a student under section 17ZH, the principal of a Catholic system school must tell the student, and give their parents written notice, about the proposed exclusion, including—

- (a) the grounds for the exclusion, including details of—
  - (i) the student’s unsafe or noncompliant behaviour; and
  - (ii) how they have exhausted reasonable alternatives to excluding the student;

*Note* **Unsafe or noncompliant** behaviour—see s 17B.  
**Reasonable alternatives**—see s 17C.

- (b) the day the exclusion is to take effect;
- (c) the decision-making process for the exclusion, and how the student and their parents may take part in the process and have their views heard.

**17ZJ Exclusion—Catholic system schools—counselling**

If a student at a Catholic system school is excluded from enrolling at any Catholic system school, the principal of the school must ensure the student is given a reasonable opportunity to attend counselling.

## **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.
- (2) The Minister may decide—
  - (a) the kinds of government schools to be established; and
  - (b) the levels of education to be provided by government 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

- (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) give public notice of—
- (i) 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* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

- (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) give public notice of the final decision; and

*Note* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

- (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

## **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 relevant Assembly committee.
- (4) In this section:

*relevant Assembly committee* means a standing committee of the Legislative Assembly nominated, in writing, by the Speaker for subsection (3).

## **20B Impacts of closing or amalgamating government 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 government 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 Aboriginal or Torres Strait Islander people 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 Aboriginal or Torres Strait Islander people 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) If a government school provides residential boarding services for students enrolled at the school, it must meet the requirements prescribed by regulation for the provision of residential boarding services.
- (4) The director-general must establish procedures that give priority to the enrolment of children in the government school in their neighbourhood.
- (5) 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.



- (6) 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.

## **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 tuition fees paid to a registered provider; or
  - (b) to people who hold a temporary visa under the *Migration Act 1958* (Cwlth), section 30 (2).
- (3) If a person to whom subsection (2) (b) applies is charged a fee, the person may ask the Minister to waive the fee (a *fee waiver*).
- (4) The Minister must waive the fee—
- (a) if the Minister is satisfied the person has demonstrated financial hardship; or
  - (b) if the Minister is satisfied the person's circumstances justify the waiver; or
  - (c) for any other reason prescribed by regulation.

- (5) A fee must not be charged in relation to a child for whom a request for a fee waiver is made, and the child must not be excluded from school for nonpayment of a fee, while the request is being considered.

*Note* It is unlawful for a public authority, including a Minister, to fail to give proper consideration to relevant human rights in making a decision (see [Human Rights Act 2004](#), s 40B).

- (6) In subsection (2):

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

*tuition fees*—see the [Education Services for Overseas Students Act 2000](#) (Cwlth), section 7.

## 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 (an *approved educational course (government)*).
- (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.



## 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

*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.

*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.

### **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 school board must give effect to the director-general's directions.
- (4) 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*) appointed by the director-general and made up as follows:
    - (i) if the school has a parents and citizens association—
      - (A) 1 member selected from the parents and citizens association of the school; and
      - (B) 2 members selected from the parents of students at the school or from members of the local community;

- (ii) if the school does not have a parents and citizens association—
    - (A) 2 members selected from the parents of students at the school and 1 member selected from the local community, who is not also a parent of a student at the school; or
    - (B) if a member is unable to be selected from the local community—3 members selected from the parents of students at the school; 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, parents 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) 3 members (the *parents and citizens members*) appointed by the director-general and made up as follows:
    - (i) if the school has a parents and citizens association—
      - (A) 1 member selected from the parents and citizens association of the school; and
      - (B) 2 members selected from the parents of students at the school or from members of the local community;
    - (ii) if the school does not have a parents and citizens association—
      - (A) 2 members selected from the parents of students at the school and 1 member selected from the local community, who is not also a parent of a student at the school; or

(B) if a member is unable to be selected from the local community—3 members selected from the parents of students at the school; 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 parents and citizens 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.

- (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.
- (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 3.6**                      **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, 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).

*Note 3* A reference to an Act includes a reference to a provision of the Act, see the [Legislation Act](#), s 7 (3).

- (2) The regulations may prescribe a person to be an authorised person (government) for 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; 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 the person's 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 the authorised person's 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 the authorised person's 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            Non-government schools— principles**

#### **72            Principles—ch 4**

This chapter is based on the following principles:

- (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 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.

## **Part 4.2 Non-government schools— administration**

### **Division 4.2.1 Registrar of non-government schools**

#### **73 Registrar—appointment**

The Minister must appoint a person as the Registrar of Non-Government Schools (the *registrar*).

*Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.

#### **74 Registrar—functions**

The registrar has the following functions:

- (a) to administer the registration of non-government schools and keep the register of non-government schools;
- (b) to develop an annual registration review program, in collaboration with the registration standards advisory board;
- (c) to carry out registration reviews of registered schools;
- (d) any other function given to the registrar under this Act or another territory law.

### **Division 4.2.2 Registration standards advisory board**

#### **75 Registration standards advisory board—establishment**

The Registration Standards Advisory Board is established.

## **76 Registration standards advisory board—functions**

The registration standards advisory board has the following functions:

- (a) to advise the Minister about whether applications to register non-government schools meet the criteria for registration;
- (b) to assist the registrar in developing annual registration review programs, including identifying registered schools for registration reviews and areas of focus for registration reviews;
- (c) to advise the Minister on matters relating to the registration standards, including matters arising from registration reviews;
- (d) to assist the registrar in advising the Minister about proposed regulatory action against registered schools;
- (e) to advise the Minister about potential improvements to the registration standards;
- (f) any other function given to the board under this Act or another territory law.

## **77 Registration standards advisory board—advice to Minister**

The Minister may, at any time, direct the registration standards advisory board to provide advice to the Minister about a matter relating to the registration standards.

## **78 Registration standards advisory board—membership**

- (1) The registration standards advisory board consists of the following members appointed by the Minister:
  - (a) a chair;
  - (b) at least 1 and not more than 3 members chosen by the Minister;
  - (c) 1 member nominated by the director-general;

- (d) 1 member nominated by the Association of Independent Schools of the ACT;
- (e) 1 member nominated by Catholic Education, Archdiocese of Canberra and Goulburn.

*Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.

- (2) The Minister may appoint a member only if—
  - (a) satisfied that the person has qualifications, expertise and experience relevant to the functions of the board; and
  - (b) the person is registered under the [Working with Vulnerable People \(Background Checking\) Act 2011](#) to engage in regulated activities involving children; and
  - (c) any other requirements prescribed by regulation are met.
- (3) Also, the Minister may appoint a person under subsection (1) (a) or (b) only if—
  - (a) the Minister has consulted the following entities about the appointment:
    - (i) the Association of Independent Schools of the ACT;
    - (ii) Catholic Education, Archdiocese of Canberra and Goulburn; and
  - (b) the person is not any of the following:
    - (i) a public servant working in the directorate responsible for administering this Act;
    - (ii) an employee of a registered school;
    - (iii) a member of the governing body of a registered school;
    - (iv) a director of a corporation that is the proprietor of a registered school;

- (v) a trustee of the Roman Catholic Church for the Archdiocese of Canberra and Goulburn;
  - (vi) an employee of Catholic Education, Archdiocese of Canberra and Goulburn;
  - (vii) an employee of the Association of Independent Schools of the ACT.
- (4) A member's conditions of appointment are the conditions stated in the instrument of appointment.

**79 Registration standards advisory board—term of appointment**

A member of the registration standards advisory board must be appointed for a term not longer than 3 years.

*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, def *appoint*).

**80 Registration standards advisory board—ending appointment**

The Minister may end the appointment of a member of the registration standards advisory board—

- (a) for misconduct; or
- (b) if the member is convicted or found guilty, in the ACT, of an offence punishable by imprisonment for at least 1 year; or

*Note* A conviction does not include a spent conviction or an extinguished conviction (see [Spent Convictions Act 2000](#), s 16 (c) (i) and s 19H (1) (c) (i)).

- (c) if the member is convicted or found guilty, outside the ACT, of an offence that, if committed in the ACT, would be punishable by imprisonment for at least 1 year; or



- (d) if the member fails to comply with section 83 (Registration standards advisory board—disclosure of interests) without reasonable excuse; or
- (e) if the member is absent from 2 consecutive meetings of the board, other than on leave approved by the chair; or
- (f) for physical or mental incapacity, if the incapacity substantially affects the exercise of the member’s functions.

**81 Registration standards advisory board—facilities etc**

The director-general must provide administrative support and facilities for the registration standards advisory board.

**82 Registration standards advisory board—conduct of meetings**

- (1) Meetings of the registration standards advisory board are to be held when and where the board decides.
- (2) However, the board must meet at least 4 times each year.
- (3) The board may conduct its proceedings (including its meetings) as it considers appropriate.
- (4) Business may be conducted at a meeting of the board only if at least 4 members are present.
- (5) The board must keep minutes of its meetings.

**83 Registration standards advisory board—disclosure of interests**

- (1) This section applies to a member of the registration standards advisory board if—
  - (a) the member has a direct or indirect 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 board.
- (3) The disclosure must be recorded in the board's minutes and, unless the board otherwise decides, the 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.

## Part 4.3 Non-government schools— registration

### Division 4.3.1 Non-government schools registration standards

#### 84 Non-government schools registration standards

A regulation may prescribe standards for the registration of non-government schools (the *registration standards*), including standards about—

- (a) governance; and
- (b) educational courses and educational programs; and
- (c) safety and welfare of students; and
- (d) other requirements for operation.

*Note* It is a condition of being registered that a non-government school must comply with any registration standards and make and keep records about complying with the registration standards (see s 93).

#### 85 Registration standards guidelines

- (1) The registrar must make guidelines about how a registered school is to comply with the registration standards (the *registration standards guidelines*).
- (2) The registration standards guidelines must be developed in consultation with—
  - (a) the registration standards advisory board; and
  - (b) Catholic Education, Archdiocese of Canberra and Goulburn; and
  - (c) the Association of Independent Schools of the ACT; and

- (d) the proprietor of any registered school that is not either—
  - (i) a Catholic system school; or
  - (ii) a member of the Association of Independent Schools of the ACT.
- (3) A registration standards guideline is a notifiable instrument.

### **Division 4.3.2 In-principle approval for registration**

#### **86 In-principle approval—application**

- (1) A person may apply for in-principle approval to register a non-government school if the person is—
  - (a) the proposed proprietor of the school; and
  - (b) a corporation.
- (2) The application must be in writing and include—
  - (a) the following information for each campus at which the person proposes to operate the school (a *proposed campus*):
    - (i) the location of the campus;
    - (ii) the day the school is to begin operating from the campus (the *proposed starting day*);
    - (iii) the levels of education to be provided at the campus;
    - (iv) the day each level of education is to start being provided at the campus;
    - (v) whether residential boarding services are to be provided at the campus; and
  - (b) evidence that there is, or is likely to be, demand in the community for the proposed school; and
  - (c) any information or documents prescribed by regulation.

- (3) A proposed starting day must be at least 2 years, but not more than 4 years, after the day the application is made.
- (4) If the Minister receives an application, the registrar must give public notice of the following:
  - (a) that an application has been made;
  - (b) the information mentioned in subsection (2) (a);
  - (c) how a person may make submissions about the application to the Minister, including the day, at least 60 days after notice is given, by which a submission must be made.

**87 In-principle approval—further information**

- (1) The Minister may, by written notice, require an applicant to give the Minister further information that the Minister reasonably needs to decide the application within a stated time.
- (2) If the applicant does not comply with a requirement in the notice, the Minister may refuse to consider the application further.

**88 In-principle approval—decision on application**

- (1) The Minister may approve the application only if satisfied it is appropriate to issue the in-principle approval for registration of a non-government school, having regard to—
  - (a) the level of interest in the proposed school, including the projected enrolments for the school; and
  - (b) any submissions made under section 86 (4) (c).
- (2) The Minister must give the applicant—
  - (a) notice in writing of the decision; and
  - (b) if the Minister approves the application—an in-principle approval for registration of the non-government school.

- (3) The in-principle approval for registration of the non-government school must include the following information for each proposed campus:
- (a) the location of the campus;
  - (b) the proposed starting day for the campus;
  - (c) the levels of education to be provided at the campus;
  - (d) the day each level of education is to start being provided at the campus;
  - (e) whether residential boarding services are to be provided at the campus;
  - (f) the day the in-principle approval expires.
- (4) If the Minister is not satisfied under subsection (1), the Minister must—
- (a) refuse the application; and
  - (b) tell the applicant, in writing, about the refusal.
- (5) The Minister must give public notice of the decision.
- (6) An in-principle approval expires on the latest of the following:
- (a) 2 years after the day it is issued;
  - (b) the latest proposed starting day for a campus of the school;
  - (c) any later day stated in the in-principle approval.

### **Division 4.3.3 Registration**

#### **89 Registration—application**

- (1) A person may apply to the Minister to register a non-government school only if the person—
- (a) is a corporation; and

- (b) is the proposed proprietor of the non-government school; and
  - (c) holds an in-principle approval to register the school.
- (2) The application must—
- (a) be made at least 9 months before the proposed starting day for the school; and
  - (b) be in writing; and
  - (c) set out any proposed change to the matters mentioned in section 86 (2) (a) for which in-principle approval was given; and
  - (d) include the name and contact details of each key individual for the applicant;
  - (e) include any information or documents prescribed by regulation.
- (3) Despite subsection (2) (a), the application may be made less than 9 months before the proposed starting day with the written approval of the Minister.
- (4) If the Minister receives an application, the registrar must give public notice of the following:
- (a) that an application has been made;
  - (b) the information mentioned in subsection (2) (c).

## **90 Registration—further information**

- (1) The Minister may, by written notice, require an applicant to give the Minister further information that the Minister reasonably needs to decide the application, within a stated time.
- (2) If the applicant does not comply with a requirement in the notice, the Minister may refuse to consider the application further.

**91 Registration—referral to registration standards advisory board**

- (1) The Minister must refer an application for registration of a non-government school to the registration standards advisory board.
- (2) The board must—
  - (a) consider the application; and
  - (b) assess whether the proposed school would, if registered, comply with the registration standards.
- (3) The board may, by written notice, require an applicant to give the board further information that the board reasonably needs to assess the application, within a stated time.
- (4) The board must—
  - (a) give the Minister a report of the board’s assessment; or
  - (b) if the board is unable to make an assessment because the applicant has not complied with a notice under subsection (3)—notify the Minister of that fact.
- (5) After the Minister receives the report, the registrar must give public notice of the report.

**92 Registration—decision on application**

- (1) The Minister must approve an application for registration of a non-government school if, after considering the board’s assessment given under section 91, the Minister is satisfied that the proposed school would, if registered, comply with the registration standards.
- (2) If the Minister is not satisfied under subsection (1), or the board is unable to make an assessment, the Minister must—
  - (a) refuse the application; and
  - (b) tell the applicant, in writing, about the refusal.



### **93 Registration—conditions**

A non-government school's registration is subject to the following conditions (each of which is a *registration condition*):

- (a) the school must comply with any registration standards;
- (b) the school must make and keep records about complying with any registration standards;
- (c) the school must have a principal;
- (d) any condition imposed by the Minister under section 125A (Taking regulatory action);
- (e) any other condition prescribed by regulation;
- (f) any other condition the Minister considers appropriate.

### **94 Registration—duration**

Registration of a school continues until the registration is cancelled or surrendered.

*Note* Registration may be cancelled under s 125A.

### **95 Registration—register and registration certificate**

- (1) If the Minister approves an application to register a non-government school, the registrar must—
  - (a) enter the school in the register of non-government schools; and  
*Note* The registrar must record the information set out in s 106 (2).
  - (b) give the proprietor of the school a registration certificate for the school.
- (2) A registration certificate for a school must include—
  - (a) the name of the school; and
  - (b) the proprietor of the school, including their ACN or ABN; and

- (c) for each campus at which the school is registered to operate (a *registered campus*)—
    - (i) the location of the campus; and
    - (ii) the levels of education to be provided at the campus; and
    - (iii) whether residential boarding services are to be provided at the campus; and
  - (d) the conditions on the registration; and
  - (e) any other information prescribed by regulation.
- (3) The registration certificate may also include any other information the registrar considers appropriate.

## **Division 4.3.4 Amending registration**

### **96 Proprietor must tell registrar about notifiable changes**

- (1) This section applies if the proprietor of a registered school intends to make any of the following changes to the operation of the school (a *notifiable change*):
- (a) stop operating at a registered campus;
  - (b) stop providing a level of education at a registered campus;
  - (c) stop providing residential boarding services at a registered campus;
  - (d) restart operating at a previously registered campus within 2 years after stopping operating at the campus;
  - (e) restart providing a level of education at a registered campus (or previously registered campus) within 2 years after stopping providing the level of education at the campus;
  - (f) restart providing residential boarding services at a registered campus (or previously registered campus) within 2 years after stopping providing residential boarding services at the campus.

- (2) However, this section does not apply if the change is an urgent temporary change made in response to a natural disaster or other unforeseeable emergency.

**Example—urgent temporary change**

a school building floods and the school moves an educational level to another campus while the flood damage is repaired

*Note* For requirements about an urgent temporary change see s 103.

- (3) The proprietor must give the registrar written notice of the change.
- (4) The notice must—
- (a) be given at least 6 months before the day the change to the operation of the school is proposed to begin (the ***proposed change day***); and
  - (b) be in writing; and
  - (c) state the proposed change day; and
  - (d) include any information or documents prescribed by regulation.
- (5) The proprietor must also tell the parents of each student at the school, in writing, about the change, at least 6 months before the change happens.
- (6) If a proprietor tells the registrar about a notifiable change, the registrar must—
- (a) amend the register of non-government schools to reflect the notifiable change; and
  - (b) give the proprietor of the school a revised registration certificate reflecting the notifiable change.

**97 Proprietor must apply for registrable changes**

- (1) This section applies if the proprietor of a registered school intends to make any of the following changes (a ***registrable change***):
- (a) start operating the school at a new campus;

- (b) start providing a new level of education at a registered campus;
  - (c) start providing residential boarding services at a registered campus;
  - (d) transfer the school's registration to a new proprietor.
- (2) However, this section does not apply if the change is—
- (a) a notifiable change to the operation of the school; or
  - (b) an urgent temporary change made in response to a natural disaster or other unforeseeable emergency.

*Note* For requirements about an urgent temporary change see s 103.

- (3) The proprietor must apply to the Minister for amendment of the school's registration.

## **98 Registration amendment—application**

- (1) An application for amendment of a school's registration must—
- (a) be made at least 9 months before the day the change is proposed to begin (the *proposed change day*); and
  - (b) be in writing; and
  - (c) state the proposed change day; and
  - (d) for an amendment to operate at a new campus, state—
    - (i) the location of the new campus; and
    - (ii) the levels of education the proprietor proposes the school to provide at the new campus; and
    - (iii) whether the proprietor proposes the school provide residential boarding services at the new campus; and

- (iv) if not all proposed levels of education are to be provided at the new campus on the proposed change day—the day the proprietor proposes to start providing each level of education at the new campus; and
  - (e) for an amendment to provide a new level of education at an already registered campus, state—
    - (i) the new level of education to be provided; and
    - (ii) the registered campus where the new level of education is to be provided; and
  - (f) for an amendment to provide new residential boarding services at an already registered campus—state the registered campus where the new residential boarding services are to be provided; and
  - (g) for an amendment to transfer the school’s registration to a new proprietor—
    - (i) state—
      - (A) the name of the proposed new proprietor; and
      - (B) the name and contact details of each key individual for the proposed new proprietor; and
    - (ii) include evidence to show the proposed new proprietor knows about and understands the purpose of the application; and
  - (h) include any information or documents prescribed by regulation.
- (2) Despite subsection (1) (a), the application may be made less than 9 months before the proposed change day with the written approval of the Minister.
- (3) If the Minister receives an application, the registrar must give public notice of the following:
- (a) that an application has been made;

- (b) the information mentioned in subsection (1) (c) to (g);
- (c) how a person may make submissions about the application to the Minister, including the day, at least 60 days after notice is given, by which a submission must be made.

**99 Registration amendment—further information**

- (1) The Minister may, by written notice, require the applicant, or proposed new proprietor, to give the Minister further information within a stated time that the Minister reasonably needs to decide the application.
- (2) If the applicant does not comply with a requirement in the notice, the Minister may refuse to consider the application further.

**100 Registration amendment—referral to registration standards advisory board**

- (1) The Minister must refer an application under section 97 to the registration standards advisory board.
- (2) The board must—
  - (a) consider the application; and
  - (b) assess whether the school as proposed to be changed or transferred would, if registered, comply with the registration standards.
- (3) The board may, by written notice, require an applicant or proposed new proprietor to give the board further information that the board reasonably needs to assess the application, within a stated time.
- (4) The board must—
  - (a) give the Minister a report of the board’s assessment; or
  - (b) if the board is unable to make an assessment because the applicant or proposed new proprietor has not complied with a notice under subsection (3)—notify the Minister of that fact.

- (5) After the Minister receives a report, the registrar must give public notice of the report.

### **101 Registration amendment—decision on application**

- (1) The Minister must approve an application to amend a school's registration if the Minister is satisfied that—
- (a) after considering the board's assessment given under section 100, the school as proposed to be changed or transferred would, if registered, comply with the registration standards; and
  - (b) the proposed change is appropriate, having regard to—
    - (i) the level of interest in the school as proposed to be changed, including the projected enrolments for the school as proposed to be changed; and
    - (ii) any submissions made under section 98 (3) (c).
- (2) If the Minister approves the application—
- (a) the Minister must tell the applicant, in writing, about the decision; and
  - (b) for an amendment to transfer the school's registration to a new proprietor—tell the new proprietor, in writing, about the decision; and
  - (c) the registrar must—
    - (i) amend the register of non-government schools to reflect the registrable change; and
    - (ii) give a revised registration certificate reflecting the registrable to—
      - (A) if the school's registration is to be transferred to a new proprietor—the new proprietor; or
      - (B) in any other case—the proprietor of the school.

- (3) If the Minister is not satisfied under subsection (1), or the board is unable to make an assessment, the Minister must—
- (a) refuse the application; and
  - (b) tell the applicant, in writing, about the refusal.

### **102 Registration amendment—conditions**

- (1) If the Minister amends a school’s registration, the Minister may also impose or amend a registration condition for the school in any way the Minister considers appropriate.
- (2) However, the Minister must not amend a registration condition requiring compliance with the registration standards.

### **103 Urgent temporary change**

- (1) The proprietor of a registered school must, in writing—
- (a) tell the registrar within 5 days about any urgent temporary change to the operation of the school made in response to a natural disaster or other unforeseeable emergency; and
  - (b) keep the registrar informed about progress returning to the arrangements for which the school is registered; and
  - (c) tell the registrar when the arrangements for which the school is registered have been restored.
- (2) The registrar may at any time require the change to be treated as a notifiable change.



## **Division 4.3.5 Registration offences**

### **104 Offence—operate unregistered non-government school**

- (1) A person must not operate a non-government school unless the school is registered.

Maximum penalty: 50 penalty units.

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

### **105 Offence—operate registered school other than within scope of registration**

- (1) The proprietor of a registered school must not operate the school at a campus unless the school is registered to operate at the campus.

Maximum penalty: 10 penalty units.

- (2) The proprietor of a registered school must not provide a level of education at a campus unless the school is registered to provide the level of education at the campus.

Maximum penalty: 10 penalty units.

- (3) The proprietor of a registered school must not provide residential boarding services at a campus unless the school is registered to provide residential boarding services at the campus.

Maximum penalty: 10 penalty units.

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

## **Division 4.3.6 Register of non-government schools**

### **106 Register of registered non-government schools**

- (1) The registrar must keep a register of registered schools.
- (2) The register must include the following information for each registered school:
  - (a) the name of the school;
  - (b) the proprietor of the school, including their ACN or ABN;
  - (c) the name and contact details of the principal of the school;
  - (d) for each registered campus—
    - (i) the location of the campus; and
    - (ii) the levels of education provided at the campus; and
    - (iii) whether residential boarding services are provided at the campus;
  - (e) the conditions on the registration;
  - (f) details of any regulatory action taken against the proprietor of the school in relation to the school;
  - (g) if the registration is cancelled or surrendered—the date of cancellation or surrender;
  - (h) any other information prescribed by regulation.
- (3) The information mentioned in subsection (2) must be made available to the public.

**Example—made available to the public**

published on an ACT government website

**107 Proprietor must update details**

- (1) If any of the following information for a registered school changes, the proprietor of the school must tell the registrar about the change, in writing, within 7 days after the change happens:
  - (a) the name or contact details of the principal of the school;
  - (b) the name or contact details of the chair of the school's governing body (if any).
- (2) If either of the following changes happen, the proprietor of a registered school must tell the registrar about the change, in writing, within 28 days after the change happens:
  - (a) a person becomes a key individual for the proprietor;
  - (b) a person stops being a key individual for the proprietor.

## Part 4.4 Non-government schools— registration reviews

### Division 4.4.1 Reasons to carry out registration review

#### 108 Meaning of *registration review*—ch 4

In this chapter:

*registration review*, of a registered school—

- (a) means an assessment by the registrar of whether the school is complying with this Act; and
- (b) includes a review carried out in the following circumstances:
  - (i) under an annual registration review program;
  - (ii) after a concern is raised with the registrar about a registered school's compliance with this Act.

#### 109 Annual registration review program

- (1) The registrar must, before the end of each calendar year, prepare a program for registration reviews of registered schools that the registrar intends to conduct in the next calendar year (an *annual registration review program*).
- (2) In developing an annual registration review program, the registrar must consult the registration standards advisory board, particularly in relation to identifying—
  - (a) the registered schools to be reviewed during the year; and
  - (b) areas of focus for registration reviews during the year.

## **110 Registration review after concern raised**

- (1) Anyone may raise a concern with the registrar about a registered school's compliance with this Act.
- (2) The registrar must take reasonable steps to consider each concern raised with the registrar.
- (3) The concern must be in writing and state—
  - (a) the nature of the concern, including the provision of the Act that is the subject of the complaint (if known); and
  - (b) the name and address of the person raising the concern.
- (4) However, the concern may be raised orally if the registrar is satisfied that to do so is reasonable in all the circumstances.
- (5) If the concern is raised orally, the registrar must make a written record of the concern as soon as practicable after being told about the concern.
- (6) The registrar may make arrangements for people with communication needs to ensure they have adequate opportunity to raise a concern.

*Note* A complaint may also be made to the human rights commission about services for children and young people (see [Human Rights Commission Act 2005](#), s 40A).

## **111 Registrar to report concerns to registration standards advisory board**

- (1) As soon as practicable after the end of each quarter the registrar must give the registration standards advisory board a report about concerns raised under section 110.
- (2) The report must not, without the written consent of the person who raised the concern, include information that—
  - (a) identifies the person as the person who raised the concern; or
  - (b) would allow the identity of the person to be worked out.

- (3) The report must comply with any requirements prescribed by regulation.

## **Division 4.4.2 Reasons to not carry out registration review**

### **112 Concern raised is frivolous etc**

The registrar need not carry out a registration review following a concern being raised if satisfied that the concern—

- (a) is frivolous, vexatious or was not made honestly; or
- (b) lacks substance; or
- (c) cannot be made under this Act; or
- (d) would be better dealt with by another entity; or
- (e) is otherwise not appropriate for the registrar to consider.

**Examples—concern not appropriate for the registrar to consider**

- 1 the matters in the concern are being dealt with by a court or tribunal
- 2 the matters in the concern have already been dealt with by the registrar

### **113 Concern withdrawn**

- (1) A person may withdraw a concern raised under section 110 (Registration review after concern raised) at any time by written notice to the registrar.
- (2) If the person has difficulty putting the notice in writing, the registrar must give the person reasonable assistance to do so.
- (3) If the person withdraws the concern, the registrar need not, but may, take further action on the concern.

## **114 Referral to school**

- (1) This section applies in relation to a registration review for a school other than a review carried out in accordance with an annual registration review program.
- (2) The registrar must refer the concern to the school, to be dealt with by the school under its complaints handling procedures.
- (3) However, the registrar need not refer the concern to the school if—
  - (a) the matter has already been considered by the school; or
  - (b) the registrar is satisfied that the nature or circumstances of the matter are so serious or urgent that the matter should be considered by the registrar or another entity.
- (4) If the registration review was initiated by a person raising a concern, the registrar must tell the person, in writing, about the referral.
- (5) If the registrar refers the concern to the school, the registrar may require the school to give the registrar a written report about—
  - (a) how the school investigated the concern; and
  - (b) the results of the school’s investigation; and
  - (c) any action taken, or proposed to be taken, in relation to the concern.

## **115 Referral to another entity**

- (1) This section applies in relation to a concern raised under section 110 (Registration review after concern raised) if—
  - (a) the registrar considers that the act, service or conduct to which a concern relates is a matter that could—
    - (i) have been complained about to another entity; and
    - (ii) be dealt with more conveniently or effectively by the other entity; and

- (b) the registrar considers it would be appropriate for the concern to be referred to the other entity; and
- (c) the registrar has consulted the other entity about the referral.

**Examples—other entities**

- the commissioner for fair trading
- the human rights commission

- (2) The registrar may—
  - (a) decide not to deal with, or further deal with, the concern; and
  - (b) if paragraph (a) applies—must refer the concern, together with any relevant documents or information in its possession or control, to the other entity.
- (3) The registrar must tell the person who raised the concern, in writing, about the referral.
- (4) If the registrar refers the concern to another entity, the registrar may ask the other entity to give the registrar a written report about—
  - (a) the results of the entity’s investigation; and
  - (b) any action taken, or proposed to be taken, in relation to the concern.
- (5) The registrar may refer a matter to the chief police officer if the registrar suspects on reasonable grounds that it relates to a criminal offence.

### **Division 4.4.3 Carrying out registration review**

#### **116 Registration review procedure**

In carrying out a registration review, the registrar must—

- (a) apply natural justice and procedural fairness; and
- (b) comply with the registration review guidelines.



**117 Registration review guidelines**

- (1) The registrar must make guidelines about how a registration review may be carried out (the *registration review guidelines*).
- (2) The registration review guidelines must be developed in consultation with—
  - (a) the registration standards advisory board; and
  - (b) Catholic Education, Archdiocese of Canberra and Goulburn; and
  - (c) the Association of Independent Schools of the ACT; and
  - (d) the proprietor of any registered school that is not either—
    - (i) a Catholic system school; or
    - (ii) a member of the Association of Independent Schools of the ACT.
- (3) A registration review guideline is a notifiable instrument.

**118 Request for further information or verification**

- (1) This section applies to a registration review for a school initiated by a person raising a concern with the registrar.
- (2) The registrar may, at any time, request the person to give the registrar—
  - (a) further information about the concern raised; or
  - (b) a written statement verifying all or part of the concern.

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

- (3) However, the verification statement may be made orally if the registrar is satisfied that to do so is reasonable in all the circumstances.

- (4) If the verification statement is made orally, the registrar must make a written record of the statement as soon as practicable after receiving the statement.
- (5) If the registrar makes a request under this section, the registrar must give the person a reasonable period to satisfy the request and may extend the period, whether before or after it ends.
- (6) If the person does not comply with the request, the registrar need not, but may, take further action on the concern.

### **119 Registrar's action on completing registration review**

- (1) If the registrar has completed a registration review of a registered school, the registrar must—
  - (a) if satisfied that the school has failed, is failing, or is at risk of failing to comply with this Act—
    - (i) give the proprietor of the school information about how the school may comply with the Act; or
    - (ii) give the proprietor of the school a compliance direction; or
    - (iii) refer the matter to the registration standards advisory board to consider for regulatory action under section 123; or
  - (b) if not satisfied that any action needs to be taken in relation to the school—take no further action.
- (2) If the registration review was initiated by a person raising a concern about the school's compliance with this Act, the registrar must tell the person, in writing, about—
  - (a) the results of the review; and
  - (b) any action taken, or proposed to be taken, in relation to the concern.

## **Division 4.4.4 Compliance directions**

### **120 Compliance directions**

- (1) This section applies if the registrar is satisfied that a registered school is failing to comply with a provision of this Act.
- (2) The registrar may direct the proprietor of the school to take action to ensure the school complies with this Act within a reasonable period of time (a *compliance direction*).
- (3) A compliance direction must be in writing and state—
  - (a) the provision of the Act that is not being complied with; and
  - (b) the action required; and
  - (c) the period of time for compliance with the direction; and
  - (d) that the Minister may take regulatory action against the proprietor of the school under division 4.4.5 if the proprietor does not comply with the Act.

## **Division 4.4.5 Regulatory action**

### **121 Meaning of *regulatory action*—ch 4**

In this chapter:

*regulatory action*, against the proprietor of a registered school, means 1 or more of the following actions:

- (a) imposing, or amending, a condition on the school's registration;
- (b) cancelling the school's registration;
- (c) cancelling the school's registration and disqualifying the proprietor of the school from applying for registration of a school for a stated period or until a stated thing happens.

## 122 Grounds for taking regulatory action

The Minister may take regulatory action against the proprietor of a registered school only if satisfied on reasonable grounds that—

- (a) the school has contravened a condition of its registration; or
- (b) the proprietor or the school has failed to comply with a provision of this Act.

## 123 Registrar—referral to registration standards advisory board

- (1) If the registrar believes on reasonable grounds that regulatory action may be taken against the proprietor of a registered school, the registrar must—
  - (a) refer the matter to the registration standards advisory board; and
  - (b) give the board any relevant registration review report.
- (2) The board must—
  - (a) consider the matter; and
  - (b) assess what regulatory action may be appropriate to take against the proprietor; and
  - (c) report the board’s assessment to the Minister.

## 124 Notification of proposed regulatory action

If, after considering the board’s report under section 123, the Minister proposes taking regulatory action against the proprietor of a registered school, the Minister must give the proprietor a written notice (a *show cause notice*) stating—

- (a) the grounds on which, under section 122, the Minister considers regulatory action may be taken; and
- (b) details of the proposed regulatory action; and

- (c) that the proprietor may, within 14 days after the day the proprietor is given the notice, give a written submission to the Minister about the proposed regulatory action.

**125 Minister—referral to registration standards advisory board**

- (1) Before deciding whether to take regulatory action against the proprietor of a registered school, the Minister must—
- (a) refer the matter to the registration standards advisory board; and
  - (b) give the board—
    - (i) a copy of the show cause notice; and
    - (ii) any written submission received by the Minister in response to the show cause notice.
- (2) The registration standards advisory board must—
- (a) consider the notice and any response; and
  - (b) assess whether the proposed regulatory action should be taken against the proprietor; and
  - (c) report the board’s assessment to the Minister.
- (3) In considering whether to take regulatory action against the proprietor, the Minister must have regard to the board’s report.

**125A Taking regulatory action**

- (1) This section applies if the Minister, after complying with section 124 and section 125, is satisfied on reasonable grounds that it is appropriate to take the regulatory action.
- (2) In deciding whether it is appropriate to take the regulatory action, the Minister must have regard to the likely impact of the proposed regulatory action on students at the registered school.

- (3) The Minister may—
- (a) if the proposed regulatory action is imposing or amending a registration condition for the school—impose or amend the condition; or
  - (b) if the proposed regulatory action is cancelling the school’s registration—take any of the following actions:
    - (i) impose or amend a registration condition for the school;
    - (ii) cancel the registration; or
  - (c) if the proposed regulatory action is cancelling the school’s registration and disqualifying the proprietor of the school from applying for a further registration—take any of the following actions:
    - (i) the actions mentioned in paragraph (b);
    - (ii) cancel the school’s registration and disqualify the proprietor of the school from applying for a further registration for a stated period or until a stated thing happens.
- (4) Before taking regulatory action against the proprietor of a registered school under this section, the Minister must tell the proprietor, by written notice (a *notice of regulatory action*)—
- (a) the regulatory action that will be taken; and
  - (b) the day on which the regulatory action takes effect; and
  - (c) if the regulatory action will end on a particular day—the day; and
  - (d) if the regulatory action will end in particular circumstances—the circumstances.
- (5) The notice of regulatory action may include any other information the Minister considers appropriate.

(6) Regulatory action against the proprietor takes effect on the day stated in the notice of regulatory action.

(7) In this section:

*proposed regulatory action* means regulatory action mentioned in a show cause notice given to the proprietor of a registered school under section 124.

### **125B When cancellation takes effect**

(1) The cancellation of a school's registration does not take effect until the cancellation becomes final.

(2) The cancellation of a school's registration becomes final when—

(a) the time for any appeal or review in relation to the decision has ended; or

(b) any appeal or review in relation to the decision has been decided or otherwise ended.

### **125C Not taking regulatory action**

(1) This section applies if, after considering a submission under section 124 (c) received from the proprietor of the registered school, the Minister is satisfied on reasonable grounds that regulatory action against the proprietor—

(a) need not be taken; or

(b) may be taken but, in all the circumstances, it is not appropriate to take the action.

(2) The Minister must give the proprietor written notice telling the proprietor that regulatory action will not be taken against the proprietor in relation to the matters stated in the show cause notice.

## Part 4.5                      Non-government schools— approved educational courses and registers of enrolments and attendances

### 125D      **Approved educational courses—registered schools**

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

### 125E      **Meaning of *register of enrolments and attendances*— pt 4.5**

In this part:

*register of enrolments and attendances* means—

- (a) for a registered school—a register recording the following information:
  - (i) the full name of each student enrolled at the school;



- (ii) the attendance or nonattendance of each student at the school on every day when the school is open for attendance; and
- (b) for an approved educational course (non-government)—a register recording the following information:
  - (i) the full name of each student enrolled at the course;
  - (ii) a record of the attendance or nonattendance of each student at the course on every day when the course is open for attendance.

**125F Keeping register of enrolments and attendances—registered schools**

- (1) The principal of a registered school must keep a register of enrolments and attendances for the school.

Maximum penalty: 10 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) The principal of a registered school commits an offence if the principal—
  - (a) makes an entry in the register of enrolments and attendances for the school; and
  - (b) is reckless about whether the entry is correct.

Maximum penalty: 10 penalty units.

**125G Producing registers of enrolments and attendances—registered schools**

- (1) An authorised person (non-government) may, by written notice, require the principal of a school, within the time stated in the notice—
  - (a) to make the register available for inspection by the authorised person (non-government); or

- (b) to give information contained on the register that the authorised person (non-government) requires.
- (2) The principal must comply with the notice.  
Maximum penalty: 50 penalty units.
- (3) An authorised person (non-government) may examine and copy a register of enrolments and attendances for a registered school.
- (4) The principal of a registered school must take reasonable steps to assist an authorised person (non-government) in exercising a function under this section.
- (5) An offence against this section is a strict liability offence.

**125H Keeping registers of enrolments and attendances—  
approved educational courses (non-government)**

- (1) A person giving an approved educational course (non-government) must keep a register of enrolments and attendances for the course.  
Maximum penalty: 10 penalty units.
- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person giving an approved educational course (non-government) commits an offence if the person—
  - (a) makes an entry in the register of enrolments and attendances for the course; and
  - (b) is reckless about whether the entry is correct.Maximum penalty: 10 penalty units.

**125I Producing registers of enrolments and attendances—  
approved educational courses (non-government)**

- (1) An authorised person (non-government) may, by written notice, require a person giving an approved educational course, within the time stated in the notice—
  - (a) to make the register available for inspection by the authorised person (non-government); or
  - (b) to give information contained on the register that the authorised person (non-government) requires.
- (2) The person giving an approved educational course must comply with the notice.

Maximum penalty: 50 penalty units.

- (3) An authorised person (non-government) may examine and copy a register of enrolments and attendances for an approved educational course (non-government).
- (4) A person giving an approved educational course (non-government) must take reasonable steps to assist an authorised person (non-government) in exercising a function under this section.
- (5) An offence against this section is a strict liability offence.

**125J Nonattendance at registered schools**

If a student at a registered 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.

## Part 4.6 Non-government schools— authorised people

### Division 4.6.1 Preliminary

#### 125K Definitions—pt 4.6

In this part:

*connected*—a thing is *connected* with an offence if—

- (a) the offence has been committed in relation to it; or
- (b) it will provide evidence of the commission of the offence; or
- (c) it was used, is being used, or is intended to be used, to commit the offence.

*occupier*, of premises, includes—

- (a) a person believed on reasonable grounds to be an occupier of the premises; and
- (b) a person apparently in charge of the premises.

*offence* includes an offence that there are reasonable grounds for believing has been, is being, or will be, committed.

*premises* includes land.

## **Division 4.6.2      Authorised people (non-government)—generally**

### **125L      Meaning of *authorised person (non-government)***

In this Act:

*authorised person (non-government)* means the following people:

- (a) a person appointed under section 125M;
- (b) the registrar.

### **125M      Appointment**

- (1) The registrar may appoint a person to be an authorised person (non-government).

*Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.

- (2) 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; and
  - (b) the person is registered under the [Working with Vulnerable People \(Background Checking\) Act 2011](#) to engage in regulated activities involving children; and
  - (c) the registrar is satisfied that the person is a suitable person to be appointed, having regard in particular to—
    - (i) any criminal convictions the person may have; and
    - (ii) the person’s employment record; and
  - (d) the person has satisfactorily completed adequate training to exercise the powers of an authorised person (non-government).
- (3) To remove any doubt, a person may be both an authorised person (government) and an authorised person (non-government).

### **125N Authorised people (non-government)—functions**

- (1) An authorised person—
  - (a) has the functions given to the person under this Act; and
  - (b) is subject to the directions of the registrar in the exercise of the functions.
- (2) An authorised person must only exercise a function under this part for the purpose of assisting the registrar in the exercise of the registrar's functions under part 4.4 (Non-government schools—registration reviews).

### **125O Identity cards**

- (1) The registrar must give an authorised person (non-government) an identity card stating the person's name and that the person is an authorised person (non-government).
- (2) The identity card must show—
  - (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if the person—
  - (a) stops being an authorised person (non-government); and
  - (b) does not return their identity card to the registrar as soon as practicable, but within 21 days, after the day the person stops being an authorised person (non-government).

Maximum penalty: 1 penalty unit.

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

- (5) Subsection (3) does not apply if the person's identity card is—
- (a) lost or stolen; or
  - (b) destroyed by someone else.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (5) (see [Criminal Code](#), s 58).

**125P Authorised person (non-government) must show identity card on exercising power of entry**

- (1) If an authorised person (non-government) exercises a power under this Act (other than a power under section 125U (Power to obtain information)) that affects an individual, the authorised person (non-government) must first show their authorised person (non-government) identity card to the individual.
- (2) If an authorised person (non-government) exercises a power under this Act (other than a power under section 125U) that affects a person other than an individual, the authorised person (non-government) must first show their authorised person (non-government) identity card to an individual the authorised person (non-government) believes on reasonable grounds is an employee, officer or agent of the person.

**Division 4.6.3 Powers**

**125Q Entry to premises**

- (1) For this chapter, an authorised person (non-government) may—
  - (a) at any reasonable time, enter registered school premises to find out whether the school is complying with this Act; or
  - (b) at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment of money); or
  - (c) at any time, enter premises with the occupier's consent.

- (2) However—
- (a) if the premises are used to provide residential boarding services—subsection (1) authorises entry only if—
    - (i) the entry is after 8 am and before 6 pm; and
    - (ii) the residents are given reasonable notice of the entry, including the purpose of the entry; and
    - (iii) a member of staff of the school is present during the entry and any exercise of powers under section 125T (General powers on entry to premises); and
  - (b) in any other case—subsection (1) (a) and (b) do not authorise entry into a part of the premises that is being used only for residential purposes.
- (3) An authorised person (non-government) may, without the consent of the occupier of premises, enter land around the premises to ask for consent to enter the premises.
- (4) To remove any doubt, an authorised person (non-government) may enter premises under subsection (1) without payment of an entry fee or other charge.
- (5) An authorised person (non-government) may, for subsection (1), enter the premises with necessary assistance.
- (6) In this section:

***at any reasonable time***, for entering registered premises, includes at any time the school is open for operation.

***necessary assistance***, for an authorised person (non-government) entering premises, includes the attendance of 1 or more people who, in the opinion of the authorised person (non-government), have knowledge or skills that could assist the authorised person (non-government) to carry out their function.



## **125R Production of identity card**

An authorised person (non-government) and any other person, other than a police officer, who is accompanying the authorised person (non-government), may not remain at premises entered under this part if the authorised person (non-government) does not produce their identity card when asked by the occupier.

## **125S Consent to entry**

- (1) This section applies if an authorised person (non-government) intends to ask the occupier of premises to consent to the authorised person (non-government) entering the premises.
- (2) Before asking for the consent, the authorised person (non-government) must—
  - (a) produce their identity card; and
  - (b) tell the occupier—
    - (i) the purpose of the entry; and
    - (ii) the reason for, and identity of, any other person accompanying the authorised person (non-government); and
    - (iii) that consent may be refused.
- (3) If the occupier consents, the authorised person (non-government) must ask the occupier to sign a written acknowledgment (an *acknowledgment of consent*)—
  - (a) that the occupier was told—
    - (i) the purpose of the entry; and
    - (ii) the reason for, and identity of, any other person accompanying the authorised person (non-government); and
    - (iii) that consent may be refused; and

- (b) that the occupier consents to the entry; and
  - (c) stating the time and date when consent was given.
- (4) If the occupier signs an acknowledgment of consent, the authorised person (non-government) must immediately give a copy to the occupier.
- (5) A court must find that the occupier did not consent to entry to the premises by the authorised person (non-government) under this part if—
- (a) the question whether the occupier consented to the entry arises in a proceeding in the court; and
  - (b) an acknowledgment of consent for the entry is not produced in evidence; and
  - (c) it is not proved that the occupier consented to the entry.

### **125T General powers on entry to premises**

- (1) An authorised person (non-government) who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises or anything at the premises:
- (a) examine anything;
  - (b) examine and copy, or take extracts from, documents relating to a contravention, or possible contravention, of this Act;
  - (c) take photographs, films, or audio, video or other recordings;
  - (d) require the occupier, or anyone at the premises, to give information, answer questions, or produce documents or anything else (whether the information, document or other thing is at the premises or elsewhere) that the occupier or person at the premises has, or has access to, that are reasonably necessary to exercise a function under this Act;

- (e) require the occupier, or anyone else at the premises, to give the authorised person (non-government) copies of documents produced under paragraph (d) that are reasonably necessary to exercise a function under this Act;
  - (f) require the occupier, or anyone else at the premises, to give the authorised person (non-government) reasonable help to exercise a power under this part.
- (2) A person must take reasonable steps to comply with a requirement made of the person under subsection (1) (d), (e) or (f).

Maximum penalty: 10 penalty units.

#### **125U Power to obtain information**

- (1) An authorised person (non-government) may, in writing, require any of the following people to give the authorised person (non-government) information, or produce documents or anything else, that the person has, or has access to, that are reasonably required by the authorised person (non-government) for this Act:
- (a) a proprietor of a non-government school;
  - (b) a member of staff of a non-government school;
  - (c) any other person who has, or has access to, information or documents or anything else that is reasonably required by the authorised person (non-government) to assess a registered school's compliance with this Act.

##### **Example**

request and obtain by email a list of employees

- (2) A person must take reasonable steps to comply with a requirement made of the person under this section.

Maximum penalty: 10 penalty units.

### **125V Abrogation of privilege against self-incrimination**

- (1) A person is not excused from answering a question or providing information or a document under this part on the ground that the answer to the question, or the information or document, may tend to incriminate the person or expose the person to a penalty.
- (2) However, any information, document or thing obtained, directly or indirectly, because of the giving of the answer or the production of the document is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence arising out of the false or misleading nature of the answer, information or document.

### **125W Warning to be given**

- (1) Before requiring a person to comply with a requirement under section 125T (1) (d) or (e) or section 125U, an authorised person (non-government) must warn the person—
  - (a) that failure to comply constitutes an offence; and
  - (b) about the effect of section 125V.
- (2) It is not an offence for an individual to refuse to answer a question put by an authorised person (non-government) or provide information or a document to an authorised person (non-government) under section 125T (1) (d) or (e) or section 125U on the ground that the question, information or document might tend to incriminate the individual, unless the individual was first given the warning in subsection (1) (b).
- (3) Nothing in this section prevents an authorised person (non-government) from obtaining and using evidence given to the authorised person (non-government) voluntarily by any person.

## Chapter 4A      School education advisory committee

### 126      Establishment of advisory committee

The Minister may establish a school education advisory committee (an *advisory committee*) as required to advise the Minister, about school education or a related matter, for a specified period.

### 127      Appointment of chair and members

If the Minister believes a person has experience or expertise relevant to an advisory committee, the Minister may appoint the person as—

- (a) the chair of the committee; or
- (b) a member of the committee.

*Note 1* For the making of appointments (including acting appointments), see the [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 [Legislation Act](#), s 207).

### 127A      Reimbursement of member's expenses

A member of an advisory committee may apply, in writing, to the director-general for reimbursement of expenses reasonably incurred by the member for the purpose of attending a meeting of the committee.

**127B Advisory committee—terms of reference and procedures**

- (1) The Minister may, in consultation with an advisory committee, determine terms of reference for the advisory committee.
- (2) Subject to any terms of reference, the advisory committee may—
  - (a) meet when and where it decides; and
  - (b) conduct its proceedings (including its meetings) as it considers appropriate.

## Chapter 5 Home education

### Part 5.1 General

#### 127C Definitions—ch 5

In this chapter:

*home education report*, in relation to a child registered for home education, means a report that complies with section 138 about the educational progress of the child.

*new registration* means registration of a child for home education under section 131 (3) if the child either—

- (a) has not previously been registered for home education under that section; or
- (b) has previously been registered for home education under that section but the previous registration has ended 12 months or more before the new registration begins.

#### 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

*Note* Chapter 6 and schedule 1 set out decisions under this Act that are reviewable.

### 131 Registration for home education

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

*Note* The parents of a child living in the ACT must enrol the child at an education provider or apply to register the child for home education not later than 10 school term days after the day the child begins living in the ACT (see s 10).

- (2) The application must—
- (a) be in writing; and
  - (b) include any information prescribed by regulation.
- (3) The director-general must 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 programs, materials and other records for use in the child's home education.
- (5) However, subsection (4) does not apply in relation to new registration.
- (6) It is a reasonable excuse for failing to comply with a requirement under part 2.2 (Compulsory education requirements) if—
- (a) an application has been made under this section for registration for home education; and
  - (b) the director-general has not yet decided the application and given the notice mentioned in subsection (7).

- (7) The director-general must notify the parents of the child of the decision, either to register or refuse to register the child for home education, not later than 28 days after a complete application has been received by the director-general.

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

- (1) 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;
  - (d) the child must live, or usually live, in the ACT;
  - (e) the parents of the child must, within 28 days of either of the following occurring, tell the director-general, in writing, about the thing occurring:
    - (i) information on the register under section 139 changes;
    - (ii) the child stops living, or usually living, in the ACT;
  - (f) the parents of the child must submit a home education report;
  - (g) the home base for the child's home education is suitable for the education of the child;

(h) any condition prescribed by regulation.

**Examples—par (d)**

- 1 the child lives in the ACT, but receives medical treatment in Sydney
- 2 the child's parents have a shared parenting agreement for the child and only 1 parent lives in the ACT
- 3 the child's family leaves the ACT for an extended holiday and intends to return to the ACT

**Example—par (g)**

the home base poses no unreasonable health and safety risks to the child

- (2) However, subsection (1) (a) to (c) does not apply in relation to new registration within 3 months after the day of registration.

**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 to the director-general for renewal of the registration.
- (2) The application must—
  - (a) be in writing; and
  - (b) include any information prescribed by regulation; and
  - (c) be made—
    - (i) not later than 3 months before the registration ends; or
    - (ii) within a shorter period approved by the director-general.
- (3) The director-general must 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.

**138 Home education reports**

- (1) The parents of a child registered for home education must give the director-general a home education report once every year, before a date in the year approved by the director-general.
- (2) The report must comply with any requirement prescribed by regulation.

**139 Home education register**

- (1) The director-general must keep a register of children registered for home education.
- (2) The register must include any information prescribed by regulation.

## 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.
- (3) The application must be given to the decision-maker within—
  - (a) 28 days after the day the applicant is given the internal review notice; 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) However, if the internally reviewable decision is made under section 17H (Suspension), the decision may be reviewed only by a person mentioned in section 17O (Suspension—government and Catholic system schools—delegation), other than the person who made the decision.
- (3) 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.
- (4) 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 6.1A Information sharing

### 145B Meaning of *young person*—pt 6.1A

In this part:

*young person* means a person who turns 18 years old while a student.

### 145C Director-general may give certain information to other States

- (1) This section applies if—
  - (a) a corresponding officer asks the director-general, in writing, whether a child or young person is receiving an education in the ACT; or
  - (b) the director-general considers, on the director-general's own initiative, that giving a corresponding officer information about the education of a child in the ACT is in the best interests of the child.
- (2) Subject to subsection (4), the director-general may provide the following information, orally or in writing, to the corresponding officer:
  - (a) if the child or young person is enrolled at an education provider or registered for home education under this Act—that the child or young person is receiving an education in the ACT;
  - (b) for a child enrolled at an education provider under this Act—whether the child is contravening section 10A (2) or section 10D (3) (which are about participation and school attendance requirements);
  - (c) if the director-general is satisfied on reasonable grounds that the child or young person is not enrolled at an education provider or registered for home education under this Act—that the child or young person is not receiving an education in the ACT;

- (d) if the child or young person, or a parent of the child or young person, has been issued with an exemption certificate under part 2.3—that the child or young person is exempt from receiving an education in the ACT;
  - (e) in any other circumstances—that the director-general is not able to confirm whether the child or young person is receiving an education in the ACT.
- (3) However, the director-general must not tell the corresponding officer any information related to the child or young person's enrolment or registration.

**Examples—related information**

- 1 whether the child or young person is enrolled at an education provider or registered for home education
  - 2 the school at which the child or young person is enrolled
  - 3 the nature of the education course in which the child or young person is enrolled
  - 4 who enrolled the child or young person
- (4) The director-general must, before providing any information to a corresponding officer under subsection (1), have the consent of—
- (a) a parent of the child or young person; or
  - (b) if the director-general is satisfied the child or young person understands what information is being given, the purpose of giving the information and who will receive the information—the child or young person.

*Note* Consent is not required in certain circumstances (see s 145E).

- (5) In considering the best interests of a child for subsection (1) (b), the director-general must consider the following:
- (a) the need to ensure that the child is not at risk of abuse or neglect;
  - (b) the child's physical, emotional and intellectual needs;
  - (c) the child's access to, or benefit from, education;

- (d) the child's age, level of understanding or level of maturity;
  - (e) any views or wishes expressed by the child or young person;
  - (f) the relationship the child has with the child's parents;
  - (g) the attitude to the child and to parental responsibilities, demonstrated by the child's parents;
  - (h) a court order or criminal investigation relating to the child or the child's parents.
- (6) In this section:

*corresponding officer* means a person responsible for the administration of the legislation under which children are enrolled at an education provider or registered for home education in another State.

*Note* *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

#### **145D Director-general may ask for certain information from other States**

- (1) Subject to subsection (2), the director-general may ask a corresponding officer, in writing, for information about a child or young person who is, or was, enrolled at an education provider or registered for home education under this Act.
- (2) Before the director-general asks the corresponding officer for the information about the child or young person the director-general must have the consent of—
  - (a) a parent of the child or young person; and
  - (b) if the director-general is satisfied the child or young person understands what information is being asked for, the purpose of asking for the information and who will receive the information—the child or young person.

*Note* Consent is not required in certain circumstances (see s 145E).

- (3) In this section:  
*corresponding officer*—see section 145C (6).

### **145E Consent not required in certain circumstances**

- (1) This section applies if the director-general must have the consent of a parent, child, or young person before asking for or giving information under this part.
- (2) The consent is not required if the director general is satisfied on reasonable grounds that—
- (a) it would not be in the best interests of the child or young person to seek the consent; or
  - (b) it is not possible or reasonably practicable in the circumstances to seek the consent.

**Example—par (b)**

despite reasonable efforts, contact details for a parent cannot be found

- (3) In considering the best interests of a child or young person for subsection (2) (a), the director-general must consider the following:
- (a) the need to ensure that the child or young person is not at risk of abuse or neglect;
  - (b) the child or young person's physical, emotional and intellectual needs;
  - (c) the child or young person's access to, or benefit from, education;
  - (d) the child or young person's age, level of understanding or level of maturity;
  - (e) any views or wishes expressed by the child or young person;
  - (f) the relationship the child or young person has with the child or young person's parents;

- (g) the attitude to the child or young person, and to parental responsibilities, demonstrated by the child or young person's parents;
- (h) a court order or criminal investigation relating to the child or young person or the child or young person's parents.

## Part 6.2 Other provisions

### 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 government or non-government 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

- (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.

**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 or non-government school, 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;
  - (b) that a stated child did or did not attend the school.
- (3) A certificate that appears to be signed by a person conducting an approved educational course, that states any of the following matters, is evidence of the matters:
  - (a) that a stated child was or was not enrolled at the course;
  - (b) that a stated child did or did not attend the course.
- (4) 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.

- (5) 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.
- (6) 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) A regulation may create offences and fix maximum penalties of not more than 10 penalty units for the offences.

- (3) A regulation may apply, adopt or incorporate an instrument as in force from time to time.

*Note* The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the [Legislation Act](#), s 47 (5) or (6) is not disapplied (see s 47 (7)).

- (4) The [Legislation Act](#), section 47 (6) does not apply to an instrument mentioned in subsection (3).

## 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
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

column 1 item	column 2 section	column 3 decision	column 4 entity	column 5 decision-maker
9	14C (4)	issue approval statement subject to condition	applicant	director-general
10	15A	revoke approval statement	child's parents	director-general
11	26 (3)	refuse to waive fee	applicant	Minister
12	17H	suspend student from a government school	parent of student	director-general
13	17P	transfer student from a government school	parent of student	director-general
14	17ZA	exclude student from enrolling at any government school	parent of student	director-general
15	88	refuse in-principle approval	applicant for in-principle approval	Minister
16	92 (2)	refuse to register non-government school	applicant for registration of school	Minister
17	93	register non-government school subject to condition	applicant for registration of school	Minister
18	101 (3)	refuse to amend non-government school's registration	proprietor of non-government school	Minister
19	102 (1)	amend non-government school's registration subject to condition	proprietor of non-government school	Minister
20	120	give compliance direction	proprietor of non-government school	registrar

**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>
21	125A	take regulatory action	proprietor of non-government school	Minister
22	131 (3)	refuse to register child for home education	parents of child	director-general
23	131 (3)	register child for home education for less than 2 years	parents of child	director-general
24	135 (1)	cancel registration of child for home education	parents of child	director-general
25	137 (3)	refuse to renew registration of child for home education	parents of child	director-general
26	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
- Australian citizen
- child
- contravene
- corporation
- Corporations Act
- director-general (see s 163)
- exercise
- fail
- financial year
- foreign country
- function
- public notice
- reviewable decision notice
- State
- territory law.

***Aboriginal or Torres Strait Islander person*** means a person who—

- (a) is a descendant of an Aboriginal person or a Torres Strait Islander person; and
- (b) identifies as an Aboriginal person or a Torres Strait Islander person; and

- (c) is accepted as an Aboriginal person or a Torres Strait Islander person by an Aboriginal community or Torres Strait Islander community.

**advisory committee**, for chapter 4A (School education advisory committee) means an advisory committee established under section 126.

**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).

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

**approved educational course** means—

- (a) an approved educational course (government); or
- (b) an approved educational course (non-government).

**approved educational course (government)**—see section 31 (1).

**approved educational course (non-government)**—see section 125D (1).

**at**—a student is a student **at** a school if the student is enrolled at the school.

**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.

***authorised person (non-government)***—see section 125L.

***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).

***Catholic system school*** means a non-government school for which the trustees of the Roman Catholic Church for the Archdiocese of Canberra and Goulburn are the proprietors.

***completes year 10***—see section 9B.

***completes year 12***—see section 9C.

***compliance direction***—see section 120 (2).

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

***compulsory education age***—see section 9.

***connected***, for part 4.6 (Non-government schools—authorised people)—see section 125K.

***contact details***, for a person, includes the person's home address, postal address (if different from the home address), email address and telephone number.

***decision-maker***—

- (a) for a school, for chapter 2A (Suspension, transfer, expulsion and exclusion of students)—see section 17C; or
- (b) for part 6.1 (Notification and review of decisions)—see section 140.

***delegated principal***, for a government school or Catholic system school, for chapter 2A (Suspension, transfer, expulsion and exclusion of students)—see section 17C.

***director of Catholic education*** means the Director, Catholic Education, Archdiocese of Canberra and Goulburn.

***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 provider***—see section 9A.

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

***exclude***, a student—

- (a) for a student at a government school, for chapter 2A (Suspension, transfer, expulsion and exclusion of students)—see section 17C; or
- (b) for a student at a Catholic system school, for chapter 2A (Suspension, transfer, expulsion and exclusion of students)—see section 17C.

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

***expel***, a student at a school, for chapter 2A (Suspension, transfer, expulsion and exclusion of students)—see section 17C.

***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.

**governing body**, of a non-government school, means the body responsible for the governance, conduct and management of the school.

**government-funded preschool program** means a preschool program delivered by an entity that receives funding for the program from the Territory, other than funding paid by the Territory under an arrangement with the Commonwealth.

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

**government school**—

- (a) means a school established under section 20 (1); and
- (b) except for section 20—includes a school-related institution established under section 20 (3).

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

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

**home education report**, for chapter 5 (Home education)—see section 127C.

**independent school** means a non-government school that is not a Catholic system school.

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

**in-principle approval**, for registration of a school, means in-principle approval applied for under section 86.

***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.

***key individual*** for a corporation, means an individual who—

- (a) is an officer of the corporation within the meaning of the [Corporations Act](#), section 9; or
- (b) is responsible for executive decisions of the corporation; or
- (c) is concerned with, or takes part in, the management of the corporation; or
- (d) manages or supervises the provision of school education for the corporation under an arrangement with the corporation.

***levels of education***, provided by a school, means the year levels of education provided by the school.

**Examples—year levels**

kindergarten, year 6

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

***new registration***, for chapter 5 (Home education)—see section 127C.

***non-government school*** means a school that is not a government school.

***notice of regulatory action***—see section 125A (3).

***notifiable change***—see section 96 (1).

***occupier***, of premises, for part 4.6 (Non-government schools—authorised people)—see section 125K.

**offence**, for part 4.6 (Non-government schools—authorised people)—see section 125K.

**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.

**permanent resident**—see the [Australian Citizenship Act 2007](#) (Cwlth), section 5.

**premises**, for part 4.6 (Non-government schools—authorised people)—see section 125K.

**preschool program** means a preschool program under the *Education and Care Services National Law (ACT)*, section 5 (1).

*Note* The [Education and Care Services National Law \(ACT\) Act 2011](#), s 6 applies the Education and Care Services National Law set out in the [Education and Care Services National Law Act 2010](#) (Vic), schedule as if it were an ACT law called the *Education and Care Services National Law (ACT)*.

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

***principal***, of a non-government school, means—

- (a) a person appointed to the position (including a person appointed to act in the position) of principal of the school; or
- (b) if no one is appointed to the position or the school has no position by that name—the person responsible for the school’s day-to-day management.

***proposed campus***—see section 86 (2) (a).

***proposed change day***—

- (a) for a notifiable change—see section 96 (4) (a); and
- (b) for a registrable change—see section 98 (1) (a).

***proposed starting day***—see section 86 (2) (a) (ii).

***proprietor***, of a non-government school, means the entity that owns the school.

***registered campus***, of a registered school—see section 95 (2) (c).

***registered non-government school*** means a non-government school registered under part 4.3 (Non-government schools—registration).

***registered school*** means a non-government school registered under part 4.3 (Non-government schools—registration).

***register of enrolments and attendances*** means—

- (a) for a government school—the register kept under section 32 for the school; and
- (b) for an approved educational course (government)—the register kept under section 32 for the course; and
- (c) for a registered non-government school—see section 125E; and
- (d) for an approved educational course (non-government)—see section 125E.

***register of non-government schools*** means the register kept by the registrar under section 106.



**registrable change**—see section 97 (1).

**registrar**—see section 73.

**registration condition**—see section 93.

**registration review**, of a registered school, for chapter 4 (Non-government schools)—see section 108.

**registration review guidelines**—see section 117.

**registration standards**—see section 84.

**registration standards advisory board** means the Registration Standards Advisory Board established under section 75.

**regulatory action**, against the proprietor of a registered school, for chapter 4 (Non-government schools)—see section 121.

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

**school** means an institution providing 1 or more levels of education from kindergarten to year 12.

*Note 1* A school may also deliver a preschool program (see *Education and Care Services National Law (ACT)*, s 5 (1), def **education and care service**).

*Note 2* The *Education and Care Services National Law (ACT) Act 2011* s 6 applies the Education and Care Services National Law set out in the *Education and Care Services National Law Act 2010* (Vic), schedule as if it were an ACT law called the *Education and Care National Law (ACT)*.

**school board**, of a government school, means the school board of the school established under section 38.

**school day**, for a school, means a day that is not—

- (a) a Saturday or Sunday; or
- (b) a public holiday in the ACT; or
- (c) a day designated as a school holiday for the school; or
- (d) any other day on which the school is not operating as a school.

**Example—day on which a school is not operating as a school**

pupil-free day

***school-related institution***—see section 20 (3).

***show cause notice***—see section 124.

***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 movement register***—see section 10AA.

***suspend***, a student at a school, for chapter 2A (Suspension, transfer, expulsion and exclusion of students)—see section 17C.

***suspension notice***—see section 17I.

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

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

***transfer***, a student at a government school, for chapter 2A (Suspension, transfer, expulsion and exclusion of students)—see section 17C.

*transferring school*—see section 17P.

*unsafe or noncompliant*, behaviour for chapter 2A (Suspension, transfer, expulsion and exclusion of students)—see section 17B.

*young person*, for part 6.1A (Information sharing)—see section 145B.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

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

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

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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

### 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)

## Endnotes

3 Legislation history

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**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))

**Education Amendment Act 2011 A2011-51**

notified LR 24 November 2011

s 1, s 2 commenced 24 November 2011 (LA s 75 (1))

remainder commenced 1 January 2012 (s 2 and see [Education and Care Services National Law \(ACT\) Act 2011 A2011-42, s 2 and CN2011-16](#))

**Statute Law Amendment Act 2012 A2012-21 sch 3 pt 3.14**

notified LR 22 May 2012

s 1, s 2 commenced 22 May 2012 (LA s 75 (1))

sch 3 pt 3.14 commenced 5 June 2012 (s 2 (1))

**Training and Tertiary Education Amendment Act 2014 A2014-48 sch 1 pt 1.8**

notified LR 6 November 2014  
s 1, s 2 commenced 6 November 2014 (LA s 75 (1))  
sch 1 pt 1.8 commenced 20 November 2014 (s 2)

**Statute Law Amendment Act 2015 A2015-15 sch 3 pt 3.5**

notified LR 27 May 2015  
s 1, s 2 commenced 27 May 2015 (LA s 75 (1))  
sch 3 pt 3.5 commenced 10 June 2015 (s 2)

**Annual Reports (Government Agencies) Amendment Act 2015 A2015-16 sch 1 pt 1.8**

notified LR 27 May 2015  
s 1, s 2 commenced 27 May 2015 (LA s 75 (1))  
sch 1 pt 1.8 commenced 3 June 2015 (s 2)

**Education Amendment Act 2015 A2015-18**

notified LR 11 June 2015  
s 1, s 2 commenced 11 June 2015 (LA s 75 (1))  
remainder commenced 1 July 2015 (s 2)

**Red Tape Reduction Legislation Amendment Act 2015 A2015-33 sch 1 pt 1.19**

notified LR 30 September 2015  
s 1, s 2 commenced 30 September 2015 (LA s 75 (1))  
sch 1 pt 1.19 commenced 14 October 2015 (s 2)

**Education (Child Safety in Schools) Legislation Amendment Act 2019 A2019-4 pt 3**

notified LR 4 March 2019  
s 1, s 2 commenced 4 March 2019 (LA s 75 (1))  
pt 3 commenced 5 March 2019 (s 2 (2))

**Education Amendment Act 2019 A2019-47**

notified LR 9 December 2019  
s 1, s 2 commenced 9 December 2019 (LA s 75 (1))  
remainder commenced 9 June 2020 (s 2 and LA s 79)

## Endnotes

3 Legislation history

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### **COVID-19 Emergency Response Legislation Amendment Act 2020 A2020-14 sch 1 pt 1.11**

notified LR 13 May 2020  
s 1, s 2 taken to have commenced 30 March 2020 (LA s 75 (2))  
sch 1 pt 1.11 commenced 14 May 2020 (s 2 (1))

### **Education Amendment Act 2020 A2020-38 pt 2**

notified LR 20 August 2020  
s 1, s 2 commenced 20 August 2020 (LA s 75 (1))  
pt 2 commenced 1 January 2021 (s 2)

### **COVID-19 Emergency Response Legislation Amendment Act 2021 A2021-1 sch 1 pt 1.9**

notified LR 19 February 2021  
s 1, s 2 commenced 19 February 2021 (LA s 75 (1))  
sch 1 pt 1.9 commenced 20 February 2021 (s 2 (1))

### **Legislation (Legislative Assembly Committees) Amendment Act 2022 A2022-4 sch 1 pt 1.5**

notified LR 30 March 2022  
s 1, s 2 commenced 30 March 2022 (LA s 75 (1))  
sch 1 pt 1.5 commenced 6 April 2022 (s 2)

### **Education Amendment Act 2022 A2022-10 pt 2, pt 3**

notified LR 17 June 2022  
s 1, s 2 commenced 17 June 2022 (LA s 75 (1))  
pt 2, pt 3 commenced 20 December 2022 (s 2)

### **Statute Law Amendment Act 2022 A2022-14 sch 3 pt 3.11**

notified LR 10 August 2022  
s 1, s 2 commenced 10 August 2022 (LA s 75 (1))  
sch 3 pt 3.11 commenced 24 August 2022 (s 2)

### **Education (Early Childhood) Legislation Amendment Act 2023 A2023-54 pt 4**

notified LR 11 December 2023  
s 1, s 2 commenced 11 December 2023 (LA s 75 (1))  
s 93, s 96 commenced 12 December 2023 (s 2 (2))  
pt 4 remainder commenced 1 January 2024 (s 2 (1))



## 4 Amendment history

### Commencement

s 2 om LA s 89 (4)

### Dictionary

s 3 am [A2023-54](#) s 83

### Meaning of *parent*

s 6 am [A2008-20](#) amdt 3.26, amdt 4.37  
sub [A2023-54](#) s 84

### General principles of Act

s 7 am [A2006-57](#) s 4, s 5, s 55; [A2022-14](#) amdt 3.65;  
[A2023-54](#) ss 85-89; ss, pars renum R35 LA

### Main objects of Act

s 8 am [A2006-57](#) s 6, s 7; [A2009-40](#) s 4; pars renum R9 LA;  
[A2022-10](#) s 4, s 20; [A2023-54](#) s 90, s 91; pars renum R35 LA

### Early childhood education

ch 1A hdg ins [A2023-54](#) s 92

### Eligible children may attend government-funded preschool programs

s 8A ins [A2023-54](#) s 92

### Procedures to encourage attendance at preschool programs delivered by government schools

s 8B ins [A2023-54](#) s 92

### 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*

s 9 hdg sub [A2022-10](#) s 5  
s 9 sub [A2009-40](#) s 5  
am [A2022-10](#) s 6

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

s 9A ins [A2009-40](#) s 5  
am [A2011-22](#) amdt 1.183; [A2014-48](#) amdt 1.17; [A2022-10](#)  
s 21

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

s 9B ins [A2009-40](#) s 5  
am [A2011-22](#) amdt 1.183; [A2020-38](#) s 22

## Endnotes

4 Amendment history

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

s 9C ins [A2009-40](#) s 5  
am [A2011-22](#) amdt 1.183; [A2015-15](#) amdt 3.25; [A2020-38](#)  
s 22

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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; [A2019-47](#) s 4

### Compulsory education requirements

pt 2.2 hdg ins [A2009-40](#) s 5

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div 2.2.1 hdg ins [A2009-40](#) s 5

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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; [A2020-38](#)  
s 22

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

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am [A2011-22](#) amdt 1.183, amdt 1.184; [A2020-38](#) s 4; pars  
renum R27 LA; [A2022-10](#) s 22

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s 10AA ins [A2022-10](#) s 7

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div 2.2.2 hdg ins [A2009-40](#) s 5

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s 10B ins [A2009-40](#) s 5

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### **Exemption certificate—revocation**

s 13 am [A2008-20](#) amdt 4.38  
sub [A2009-40](#) s 5  
am [A2011-22](#) amdt 1.183

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pt 2.4 hdg ins [A2009-40](#) s 5

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

s 13A ins [A2009-40](#) s 5  
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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

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div 2.4.2 hdg ins [A2009-40](#) s 5

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s 13D ins [A2009-40](#) s 5  
am [A2011-22](#) amdt 1.183; [A2020-38](#) s 22

### **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

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s 14C ins [A2009-40](#) s 5  
am [A2011-22](#) amdt 1.183

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s 15B ins [A2009-40](#) s 5  
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s 17 am [A2006-57](#) s 9  
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s 17F ins [A2022-10](#) s 8

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pt 2A.2 hdg ins [A2022-10](#) s 8

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s 17ZD ins [A2022-10](#) s 8

**Exclusion—government schools—ongoing education and counselling**

s 17ZE ins [A2022-10](#) s 8

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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; [A2011-51](#) s 4; [A2015-33](#) amdt 1.47, amdt 1.48; [A2022-10](#) s 26

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s 20A ins [A2010-22](#) s 8  
am [A2022-4](#) amdt 1.12, amdt 1.13

**Impacts of closing or amalgamating government schools**

s 20B hdg sub [A2022-10](#) s 27  
s 20B ins [A2010-22](#) s 8  
am [A2022-10](#) s 28; [A2023-54](#) s 94

**Operation of government schools**

s 21 am [A2011-22](#) amdt 1.183; [A2020-38](#) s 5; ss renum R27 LA; [A2022-10](#) s 29

**Investigation of complaints—government schools**

s 22 am [A2011-22](#) amdt 1.183, amdt 1.184; [A2015-16](#) amdt 1.9

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s 23 am [A2011-22](#) amdt 1.183



- Review of operation of government schools**  
s 24 am [A2011-22](#) amdt 1.183
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s 25 am [A2006-57](#) s 55
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s 26 am [A2020-38](#) s 6; ss renum R27 LA; [A2022-10](#) s 30, s 31
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s 29 am [A2006-57](#) s 55
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s 30 am [A2006-57](#) s 55; [A2011-22](#) amdt 1.183
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s 31 hdg am [A2006-57](#) s 55  
s 31 am [A2006-57](#) s 55; [A2011-22](#) amdt 1.183; [A2022-10](#) s 32
- Keeping records of enrolment and attendances for government schools**  
s 33 am [A2006-57](#) s 55
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s 34 am [A2006-57](#) s 55; [A2011-22](#) amdt 1.183
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s 36 am [A2006-57](#) s 55; [A2010-7](#) s 4; [A2011-22](#) amdt 1.183,  
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- Definitions for pt 3.4**  
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- Establishment of school boards**  
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s 40 am [A2006-57](#) s 13, s 14; [A2011-3](#) amdt 3.184; [A2011-22](#)  
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s 41 hdg sub [A2006-57](#) s 15  
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#### **Composition of school boards of small schools**

s 42 hdg sub [A2006-57](#) s 17  
s 42 am [A2006-57](#) s 18; [A2011-22](#) amdt 1.183; [A2020-38](#) s 8

#### **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

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s 52 am [A2011-22](#) amdt 1.183; [A2020-38](#) s 22

#### **Government Schools Education Council**

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div 3.5.1 hdg om [A2015-18](#) s 4

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s 54 om [A2015-18](#) s 4

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

s 55 am [A2006-57](#) s 22  
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**Membership of council (government)**

s 56 am [A2011-22](#) amdt 1.183  
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s 57 om [A2015-18](#) s 4

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s 58 om [A2015-18](#) s 4

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s 59 om [A2015-18](#) s 4

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s 60 om [A2015-18](#) s 4

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s 61 om [A2015-18](#) s 4

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s 62 am [A2011-22](#) amdt 1.178, amdt 1.183, amdt 1.184  
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div 3.5.2 hdg om [A2015-18](#) s 4

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s 63 am [A2011-22](#) amdt 1.183  
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s 64 om [A2015-18](#) s 4

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s 65 om [A2015-18](#) s 4

**Other provisions relating to council (government)**

div 3.5.3 hdg ins [A2006-57](#) s 23  
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**Minister to present advice of council (government)**

s 66A (prev s 73) reloc and renum as s 66A [A2006-57](#) s 27  
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s 67 am [A2010-18](#) amdt 1.14; [A2011-22](#) amdt 1.183; [A2012-21](#)  
amdt 3.54, amdt 3.55; [A2023-54](#) s 95

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s 68 am [A2011-22](#) amdt 1.183; [A2022-14](#) amdt 3.66

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s 69 am [A2022-14](#) amdt 3.67

**Miscellaneous**

div 3.6.3 hdg om [A2006-57](#) s 25

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**Non-government schools—principles**

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s 72 **orig s 72**  
reloc and renum as s 49A  
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pt 4.2 hdg sub [A2022-10](#) s 33

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div 4.2.1 hdg ins [A2022-10](#) s 33

**Registrar—appointment**

s 73 **orig s 73**  
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**pres s 73**  
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s 74 sub [A2022-10](#) s 33

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div 4.2.2 hdg ins [A2022-10](#) s 33

**Registration standards advisory board—establishment**

s 75 sub [A2022-10](#) s 33

**Registration standards advisory board—functions**

s 76 **orig s 76**  
reloc and renum as s 118  
**pres s 76**  
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s 77 am [A2022-4](#) amdt 1.14  
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amdt 3.187; [A2011-22](#) amdt 1.183  
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om [A2022-10](#) s 33**Registration standards guidelines**s 85 am [A2009-20](#) amdt 3.63; [A2010-18](#) amdt 1.16; [A2011-3](#)  
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#### **In-principle approval—application**

s 86 am [A2019-4](#) s 8; [A2020-38](#) s 9; pars renum R27 LA  
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#### **In-principle approval—further information**

s 87 am [A2009-20](#) amdt 3.63; [A2010-18](#) amdt 1.17; [A2011-3](#)  
amdt 3.189; [A2011-22](#) amdt 1.183; [A2015-33](#) amdt 1.52;  
[A2020-38](#) s 22  
sub [A2022-10](#) s 33

#### **In-principle approval—decision on application**

s 88 am [A2019-4](#) s 9; [A2020-38](#) s 10; pars renum R27 LA  
sub [A2022-10](#) s 33

#### **Extending registration—COVID-19 emergency**

s 88AA ins [A2020-14](#) amdt 1.60  
am [A2021-1](#) amdt 1.19  
om [A2022-10](#) s 33

#### **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; [A2015-33](#) amdt 1.53;  
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s 88B ins [A2006-57](#) s 35  
am [A2020-38](#) s 11; pars renum R27 LA  
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#### **Registration**

div 4.3.3 hdg ins [A2022-10](#) s 33

#### **Registration—application**

s 89 am [A2009-20](#) amdt 3.63; [A2010-18](#) amdt 1.19; [A2011-3](#)  
amdt 3.191; [A2011-22](#) amdt 1.183; [A2015-33](#) amdt 1.54;  
[A2020-38](#) s 22  
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#### **Registration—further information**

s 90 am [A2020-38](#) s 12, s 13; pars renum R27 LA  
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#### **Registration—referral to registration standards advisory board**

s 91 am [A2019-4](#) s 10; [A2020-38](#) s 14; pars renum R27 LA  
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#### **Registration—decision on application**

s 92 am [A2006-57](#) s 36  
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**Registration—conditions**

s 93 sub [A2022-10](#) s 33

**Registration—duration**

s 94 sub [A2022-10](#) s 33

**Registration—register and registration certificate**

s 95 am [A2019-4](#) s 11  
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div 4.3.4 hdg ins [A2022-10](#) s 33

**Proprietor must tell registrar about notifiable changes**

s 96 am [A2011-3](#) amdt 3.192; [A2020-38](#) s 22  
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**Proprietor must apply for registrable changes**

s 97 am [A2019-4](#) s 12; [A2020-38](#) s 15; pars renum R27 LA  
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**Registration amendment—application**

s 98 am [A2006-57](#) s 37; pars renum R4 LA; [A2011-22](#) amdt 1.183  
sub [A2022-10](#) s 33

**Registration amendment—further information**

s 99 sub [A2022-10](#) s 33

**Registration amendment—referral to registration standards advisory board**

s 100 am [A2006-57](#) s 55  
sub [A2022-10](#) s 33

**Registration amendment—decision on application**

s 101 am [A2006-57](#) s 55; [A2011-22](#) amdt 1.183  
sub [A2022-10](#) s 33

**Registration amendment—conditions**

s 102 am [A2006-57](#) s 55  
sub [A2022-10](#) s 33

**Urgent temporary change**

s 103 am [A2006-57](#) s 55  
sub [A2022-10](#) s 33

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div 4.3.5 hdg ins [A2022-10](#) s 33

**Offence—operate unregistered non-government school**

s 104 hdg sub [A2006-57](#) s 38  
s 104 am [A2006-57](#) s 55; [A2010-7](#) s 5  
om [A2022-10](#) s 10  
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#### **Offence—operate registered school other than within scope of registration**

s 105 hdg am [A2006-57](#) s 55  
s 105 am [A2006-57](#) s 55  
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#### **Register of non-government schools**

div 4.3.6 hdg ins [A2022-10](#) s 33

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

s 106 am [A2006-57](#) s 39  
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#### **Proprietor must update details**

s 107 am [A2006-57](#) s 39  
om [A2015-18](#) s 5  
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#### **Non-government schools—registration reviews**

pt 4.4 hdg om [A2015-18](#) s 5  
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#### **Reasons to carry out registration review**

div 4.4.1 hdg om [A2015-18](#) s 5  
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#### **Meaning of *registration review*—ch 4**

s 108 om [A2015-18](#) s 5  
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#### **Annual registration review program**

s 109 om [A2015-18](#) s 5  
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#### **Registration review after concern raised**

s 110 om [A2015-18](#) s 5  
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#### **Registrar to report concerns to registration standards advisory board**

s 111 om [A2015-18](#) s 5  
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#### **Reasons to not carry out registration review**

div 4.4.2 hdg om [A2015-18](#) s 5  
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#### **Concern raised is frivolous etc**

s 112 om [A2015-18](#) s 5  
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s 113 om [A2015-18](#) s 5  
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**Referral to school**

s 114 am [A2011-22](#) amdt 1.179, amdt 1.183, amdt 1.184  
om [A2015-18](#) s 5  
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**Referral to another entity**

s 115 om [A2015-18](#) s 5  
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**Carrying out registration review**

div 4.4.3 hdg ins [A2006-57](#) s 40  
om [A2015-18](#) s 5  
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**Registration review procedure**

s 116 om [A2015-18](#) s 5  
ins [A2022-10](#) s 33

**Registration review guidelines**

s 117 om [A2015-18](#) s 5  
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**Request for further information or verification**

s 118 orig s 118 om [A2006-57](#) s 41  
(prev s 76) reloc and renum as s 118 [A2006-57](#) s 28  
om [A2015-18](#) s 5  
ins [A2022-10](#) s 33

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

s 118A (prev s 127) reloc and renum as s 118A [A2006-57](#) s 44  
om [A2015-18](#) s 5

**Registrar's action on completing registration review**

s 119 am [A2010-18](#) amdt 1.20; [A2011-22](#) amdt 1.183  
sub [A2022-10](#) s 33

**Compliance directions**

div 4.4.4 hdg ins [A2022-10](#) s 33

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s 120 am [A2011-22](#) amdt 1.183  
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div 4.4.5 hdg ins [A2022-10](#) s 33

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s 125A ins [A2022-10](#) s 33

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s 125D ins [A2022-10](#) s 33

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s 126 om [A2006-57](#) s 43  
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### **Appointment of chair and members**

s 127 **orig s 127**  
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s 127B ins [A2015-18](#) s 6

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### **Provisional registration for home education**

s 130 sub [A2006-57](#) s 45  
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s 131 am [A2006-57](#) s 46; [A2011-22](#) amdt 1.183; [A2019-47](#) ss 9-11

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

s 132 am [A2011-22](#) amdt 1.183  
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### **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

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s 137 am [A2011-3](#) amdt 3.194; [A2011-22](#) amdt 1.183; [A2019-47](#)  
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s 138 am [A2011-22](#) amdt 1.183  
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s 139 am [A2011-22](#) amdt 1.183; [A2019-47](#) s 18

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**Applications not stay reviewable decisions**

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s 144 sub [A2008-37](#) amdt 1.131  
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s 145A ins [A2008-37](#) amdt 1.131

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s 145C ins [A2019-4](#) s 13  
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s 145D ins [A2019-4](#) s 13

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s 145E ins [A2019-4](#) s 13

### **Preschools**

s 146 am [A2011-22](#) amdt 1.183  
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### **Student transfer register**

s 146A ins [A2009-40](#) s 6  
am [A2011-22](#) amdt 1.183  
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### **Offences on school premises**

s 147 am [A2022-10](#) s 34

### **Notification of parents**

s 149 am [A2006-57](#) s 55

### **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  
am [A2022-10](#) s 35; ss renum R31 LA

### **Declaration—COVID-19 emergency**

s 153B ins [A2020-14](#) amdt 1.61  
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exp 29 September 2023 (s 153B (7))

### **Extending in-principle approval—COVID-19 emergency**

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### **Transitional provisions**

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pt 7.1 hdg exp 1 January 2006 (s 171)

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s 155 am [A2020-38](#) s 18; [A2022-10](#) s 38

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s 157 exp 1 January 2006 (s 171)

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s 169 exp 1 January 2006 (s 171)

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s 170 exp 1 January 2006 (s 171)

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s 171 exp 1 January 2006 (s 171)

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s 172 exp 1 January 2006 (s 171)

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s 173 om LA s 89 (3)

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#### **Legislation amended—sch 2**

s 175 om LA s 89 (3)

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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))

#### **Transitional regulations**

s 302 ins [A2009-40](#) s 8  
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#### **Expiry—ch 9**

s 303 ins [A2009-40](#) s 8  
exp 1 January 2012 (s 303 (1) (LA s 88 declaration applies))

#### **Transitional—Education Amendment Act 2022**

ch 10 hdg ins [A2022-10](#) s 12  
exp 20 December 2023 (s 313 (2))

#### **Education Amendment Act 2022—part 2**

pt 10.1 hdg ins [A2022-10](#) s 12  
exp 20 December 2023 (s 313 (1))



**Definitions—pt 10.1**

s 304 ins [A2022-10](#) s 12  
exp 20 December 2023 (s 313 (1))

**Government school suspensions**

s 305 ins [A2022-10](#) s 12  
exp 20 December 2023 (s 313 (1))

**Government school immediate suspensions**

s 306 ins [A2022-10](#) s 12  
exp 20 December 2023 (s 313 (1))

**Government school exclusions**

s 307 ins [A2022-10](#) s 12  
exp 20 December 2023 (s 313 (1))

**Non-government school suspensions**

s 308 ins [A2022-10](#) s 12  
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**Non-government school immediate suspensions**

s 309 ins [A2022-10](#) s 12  
exp 20 December 2023 (s 313 (1))

**Catholic systemic schools exclusions**

s 310 ins [A2022-10](#) s 12  
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s 311 ins [A2022-10](#) s 12  
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pt 10.1A hdg ins [A2022-10](#) s 39  
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s 311A ins [A2022-10](#) s 39  
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s 311B ins [A2022-10](#) s 39  
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s 311C ins [A2022-10](#) s 39  
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s 311D ins [A2022-10](#) s 39  
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s 311E ins [A2022-10](#) s 39  
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s 311F ins [A2022-10](#) s 39  
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s 311G ins [A2022-10](#) s 39  
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**Application for in-principle approval for registration of school at additional educational level—within 2 years**

s 311H ins [A2022-10](#) s 39  
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s 311I ins [A2022-10](#) s 39  
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**Application for provisional registration of school**

s 311J ins [A2022-10](#) s 39  
exp 20 December 2023 (s 313 (2))

**Provisional registration of a school**

s 311K ins [A2022-10](#) s 39  
exp 20 December 2023 (s 313 (2))

**Application for registration of school**

s 311L ins [A2022-10](#) s 39  
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**Registration of school**

s 311M ins [A2022-10](#) s 39  
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**Application for registration of school at additional campus—generally**

s 311N ins [A2022-10](#) s 39; pars renum R31 LA  
exp 20 December 2023 (s 313 (2))

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s 311O ins [A2022-10](#) s 39  
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**Application for registration of school at additional educational level—generally**

s 311P ins [A2022-10](#) s 39  
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s 311Q ins [A2022-10](#) s 39  
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s 311R ins [A2022-10](#) s 39  
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s 311S ins [A2022-10](#) s 39  
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**Appointment of authorised persons (non-government)**

s 311T ins [A2022-10](#) s 39  
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**Transitional regulations**

pt 10.2 hdg ins [A2022-10](#) s 12  
exp 20 December 2023 (s 313 (2))

**Transitional regulations**

s 312 ins [A2022-10](#) s 12  
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pt 10.3 hdg ins [A2022-10](#) s 12  
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s 313 ins [A2022-10](#) s 12  
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**Reviewable decisions**

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am [A2009-40](#) s 9; items renum R9 LA; [A2011-22](#) amdt 1.183;  
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items renum R31 LA

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om [A2008-37](#) amdt 1.132

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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; [A2012-21](#) amdt 3.56; [A2015-33](#) amdt 1.55; [A2020-38](#) s 19; [A2022-10](#) s 42

def **Aboriginal or Torres Strait Islander person** ins [A2023-54](#) s 97

def **advisory committee** ins [A2015-18](#) s 7

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def **approved educational course** sub [A2022-10](#) s 43

def **approved educational course (government)** am [A2006-57](#) s 55; [A2015-15](#) amdt 3.26 sub [A2022-10](#) s 43

def **approved educational course (non-government)** am [A2006-57](#) s 55; [A2015-15](#) amdt 3.27 sub [A2022-10](#) s 43

def **at** ins [A2022-10](#) s 14

def **authorised person (government)** am [A2015-15](#) amdt 3.28

def **authorised person (non-government)** am [A2015-15](#) amdt 3.29 sub [A2022-10](#) s 43

def **board appointed member** am [A2006-57](#) s 52

def **boarding facilities** ins [A2020-38](#) s 20 om [A2022-10](#) s 44

def **carer** om [A2023-54](#) s 98

def **Catholic system school** ins [A2022-10](#) s 14

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def **completes year 10** ins [A2009-40](#) s 11

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def **connected** ins [A2022-10](#) s 45

def **contact details** ins [A2022-10](#) s 45

def **corporal punishment** om [A2022-14](#) amdt 3.69

def **council** om [A2015-18](#) s 9

def **council (government)** om [A2015-18](#) s 9

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def **decision-maker** ins [A2015-15](#) amdt 3.30 sub [A2022-10](#) s 16

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def **in-principle approval** sub [A2022-10](#) s 46  
def **internally reviewable decision** ins [A2008-37](#) amdt 1.135  
def **internal reviewer** sub [A2008-37](#) amdt 1.136  
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def **key individual** ins [A2022-10](#) s 47  
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def **occupier** ins [A2022-10](#) s 49  
def **offence** ins [A2022-10](#) s 49  
def **parents and citizens member** am [A2006-57](#) s 52  
def **participates** ins [A2009-40](#) s 15  
def **permanent resident** ins [A2022-10](#) s 49  
def **premises** ins [A2022-10](#) s 49  
def **preschool program** ins [A2023-54](#) s 98  
def **principal** ins [A2022-10](#) s 19  
def **proposed campus** ins [A2022-10](#) s 49  
def **proposed change day** ins [A2022-10](#) s 49  
def **proposed opening day** am [A2006-57](#) s 53; [A2015-15](#)  
amdt 3.32  
om [A2022-10](#) s 50

## Endnotes

4 Amendment history

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def **proposed starting day** ins [A2022-10](#) s 51  
def **proprietor** ins [A2022-10](#) s 51  
def **registered campus** ins [A2022-10](#) s 51  
def **registered non-government school** sub [A2022-10](#) s 52  
def **registered school** ins [A2022-10](#) s 53  
def **register of enrolments and attendances** sub [A2015-15](#) amdt 3.33; [A2022-10](#) s 54  
def **register of non-government schools** sub [A2022-10](#) s 54  
def **registrable change** ins [A2022-10](#) s 55  
def **registrar** am [A2015-15](#) amdt 3.34 sub [A2022-10](#) s 56  
def **registration conditions** ins [A2022-10](#) s 57  
def **registration review** ins [A2022-10](#) s 57  
def **registration review guidelines** ins [A2022-10](#) s 57  
def **registration standards** ins [A2022-10](#) s 57  
def **registration standards advisory board** ins [A2022-10](#) s 57  
def **regulatory action** ins [A2022-10](#) s 57  
def **reviewable decision** sub [A2008-37](#) amdt 1.138  
def **school** am [A2009-40](#) s 16 sub [A2011-51](#) s 9; [A2022-10](#) s 58  
def **school board** am [A2015-15](#) amdt 3.35  
def **school day** ins [A2022-10](#) s 19  
def **school-leaving age** om [A2009-40](#) s 17  
def **school-related institution** sub [A2015-15](#) amdt 3.36  
def **show cause notice** ins [A2022-10](#) s 59  
def **staff member** am [A2006-57](#) s 53  
def **student member** am [A2006-57](#) s 53 om [A2022-10](#) s 60  
def **student movement register** ins [A2022-10](#) s 19  
def **suspend** ins [A2022-10](#) s 19  
def **suspension notice** ins [A2022-10](#) s 19  
def **training alternative** ins [A2009-40](#) s 18  
def **training alternative provider** ins [A2009-40](#) s 18  
def **transfer** ins [A2022-10](#) s 19  
def **transferring school** ins [A2022-10](#) s 19  
def **unsafe or noncompliant** ins [A2022-10](#) s 19  
def **young person** ins [A2019-4](#) s 14

## 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	<a href="#">A2006-28</a>	amendments by <a href="#">A2006-28</a>
R4 20 Dec 2006	20 Dec 2006– 26 Oct 2008	<a href="#">A2006-57</a>	amendments by <a href="#">A2006-57</a>
R5 27 Oct 2008	27 Oct 2008– 1 Feb 2008	<a href="#">A2008-37</a>	amendments by <a href="#">A2008-20</a>
R6 2 Feb 2009	2 Feb 2009– 26 Feb 2009	<a href="#">A2008-37</a>	amendments by <a href="#">A2008-37</a>
R7 27 Feb 2009	27 Feb 2009– 21 Sept 2009	<a href="#">A2008-37</a>	amendments by <a href="#">A2008-20</a>
R8 22 Sept 2009	22 Sept 2009– 31 Dec 2009	<a href="#">A2009-20</a>	amendments by <a href="#">A2009-20</a>
R9 1 Jan 2010	1 Jan 2010– 3 Mar 2010	<a href="#">A2009-40</a>	amendments by <a href="#">A2009-40</a>
R10 4 Mar 2010	4 Mar 2010– 2 June 2010	<a href="#">A2010-7</a>	amendments by <a href="#">A2010-7</a>
R11 3 June 2010	3 June 2010– 6 July 2010	<a href="#">A2010-18</a>	amendments by <a href="#">A2010-18</a>
R12 7 July 2010	7 July 2010– 28 Feb 2011	<a href="#">A2010-22</a>	amendments by <a href="#">A2010-22</a>

## Endnotes

### 5 Earlier republications

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R13 1 Mar 2011	1 Mar 2011– 30 June 2011	<a href="#">A2011-3</a>	amendments by <a href="#">A2011-3</a>
R14 1 July 2011	1 July 2011– 31 Dec 2011	<a href="#">A2011-22</a>	amendments by <a href="#">A2011-22</a>
R15 1 Jan 2012	1 Jan 2012– 1 Jan 2012	<a href="#">A2011-51</a>	amendments by <a href="#">A2011-51</a>
R16 2 Jan 2012	2 Jan 2012– 4 June 2012	<a href="#">A2011-51</a>	expiry of transitional provisions (ch 9)
R17 5 June 2012	5 June 2012– 19 Nov 2014	<a href="#">A2012-21</a>	amendments by <a href="#">A2012-21</a>
R18 20 Nov 2014	20 Nov 2014– 1 Jan 2015	<a href="#">A2014-48</a>	amendments by <a href="#">A2014-48</a>
R19 2 Jan 2015	2 Jan 2015– 2 June 2015	<a href="#">A2014-48</a>	expiry of provision (s 153)
R20 3 June 2015	3 June 2015– 9 June 2015	<a href="#">A2015-16</a>	amendments by <a href="#">A2015-16</a>
R21 10 June 2015	10 June 2015– 30 June 2015	<a href="#">A2015-16</a>	amendments by <a href="#">A2015-15</a>
R22 1 July 2015	1 July 2015– 13 Oct 2015	<a href="#">A2015-18</a>	amendments by <a href="#">A2015-18</a>
R23 14 Oct 2015	14 Oct 2015– 4 Mar 2019	<a href="#">A2015-33</a>	amendments by <a href="#">A2015-33</a>
R24 5 Mar 2019	5 Mar 2019– 13 May 2020	<a href="#">A2019-4</a>	amendments by <a href="#">A2019-4</a>
R25 14 May 2020	14 May 2020– 8 June 2020	<a href="#">A2020-14</a>	amendments by <a href="#">A2020-14</a>
R26 9 June 2020	9 June 2020– 31 Dec 2020	<a href="#">A2020-14</a>	amendments by <a href="#">A2019-47</a>
R27 1 Jan 2021	1 Jan 2021– 19 Feb 2021	<a href="#">A2020-38</a>	amendments by <a href="#">A2020-38</a>
R28 20 Feb 2021	20 Feb 2021– 5 Apr 2022	<a href="#">A2021-1</a>	amendments by <a href="#">A2021-1</a>



<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R29 6 Apr 2022	6 Apr 2022– 23 Aug 2022	<a href="#">A2022-4</a>	amendments by <a href="#">A2022-4</a>
R30 24 Aug 2022	24 Aug 2022– 19 Dec 2022	<a href="#">A2022-14</a>	amendments by <a href="#">A2022-14</a>
R31 20 Dec 2022	20 Dec 2022– 29 Sept 2023	<a href="#">A2022-14</a>	amendments by <a href="#">A2022-10</a>
R32 30 Sept 2023	30 Sept 2023– 11 Dec 2023	<a href="#">A2022-14</a>	expiry of provisions (s 153B, s 153C)
R33 12 Dec 2023	12 Dec 2023– 20 Dec 2023	<a href="#">A2023-54</a>	amendments by <a href="#">A2023-54</a>
R34 21 Dec 2023	21 Dec 2023– 31 Dec 2023	<a href="#">A2023-54</a>	expiry of transitional provisions (ch 10)

## Endnotes

6 Expired transitional or validating provisions

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### 6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see [Legislation Act 2001](#), s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation ‘exp’ followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

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