



Australian Capital Territory

Education Amendment Act 2019

A2019-47

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Australian Capital Territory

Education Amendment Act 2019

A2019-47

An Act to amend the *Education Act 2004* and the *Education Regulation 2005*

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

1 Name of Act

This Act is the *Education Amendment Act 2019*.

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

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

3 Legislation amended

This Act amends the *Education Act 2004*.

Note This Act also amends the *Education Regulation 2005* (see sch 1).

4 Guidelines—certain director-general functions Section 9D (1), new dot point

insert

- chapter 5 (Home education).

5 New section 127C

in part 5.1, insert

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.

**6 Registration—home education
Part 5.2 heading, new note**

insert

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

**7 Meaning of *home education*
Section 129**

omit

**8 Provisional registration for home education
Section 130**

omit

**9 Registration for home education
Section 131 (1) and (2)**

substitute

- (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.

10 Section 131 (3)

omit

may

substitute

must

11 Section 131 (4)

substitute

- (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.

12 Section 132

substitute

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.

13 Renewal of registration for home education Section 137 (1)

omit

in writing

14 Section 137 (2)

substitute

- (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.

15 Section 137 (3)

omit

may

substitute

must

16 Section 137 (4)

omit

17 Section 138

substitute

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.

**18 Home education register
New section 139 (2)**

insert

- (2) The register must include any information prescribed by regulation.

19 Dictionary, definition of *home education*

substitute

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

20 Dictionary, new definitions

insert

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

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

Schedule 1 Education Regulation 2005— Consequential amendments

(see s 3)

[1.1] New section 2A

in part 1, insert

2A Dictionary

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

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

For example, the signpost definition '*parental responsibility*—see the *Children and Young People Act 2008*, section 15.' means that the term 'parental responsibility' is defined in that section and the definition applies to this regulation.

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

[1.2] Part 4

substitute

Part 4 Home education

7 Information for registration application—Act, s 131 (2) (b)

The following information is prescribed:

- (a) the full names of the child's parents;

- (b) the parents' contact details;

Examples

- email address
- phone number
- postal address

- (c) a certified copy of a document that shows the parents have parental responsibility for the child;

Examples

- child's birth certificate
- adoption order under the *Adoption Act 1993*, pt 3
- parentage declaration under the *Parentage Act 2004*, s 19

- (d) a certified copy of a document that proves the parents' home address;

Note The parents must tell the director-general within 28 days if the child stops living, or usually living, in the ACT (see [Act](#), s 132 (1) (e) (ii)).

- (e) a certified copy of the child's—

(i) birth certificate; or

(ii) if the birth certificate is not available—passport or another document that the director-general is satisfied identifies the child;

- (f) the full name by which the child is known, if different from the name on the document provided under paragraph (e);

- (g) the address of the home base from which the home education will be carried out;

- (h) information about any medical or special needs of the child that may affect the child's educational needs or progress.

8 Conditions of registration for home education—Act, s 132 (1) (h)

- (1) The following conditions are prescribed:
- (a) if registration of a child for home education is new registration—the parents must—
 - (i) within 3 months after the day of the current registration, provide a written statement of intent to the director-general that states—
 - (A) how the parents will provide a high-quality education for the child; and
 - (B) the educational opportunities that will be offered by the parents to their child and the strategies they will use to encourage their child to learn; and
 - (C) how the plan or approach for the child’s home education will deliver an education consistent with the principles mentioned in the [Act](#), section 128 (d); and
 - (ii) within 3 months after the day of the current registration, or at another time approved by the director-general, meet with an authorised person (government) to discuss the home education of the child and, at the meeting, show any home education documents to the authorised person;
 - (b) if registration of a child for home education is registration under the [Act](#), section 131 (3), and the child has been previously registered for home education under that section, but the registration has ended less than 12 months before the current registration begins—within 10 school days from the day of registration, the parents must—
 - (i) provide a written statement of intent that states the matters mentioned in paragraph (a) (i) (A) to (C) to the director-general; and

- (ii) meet with an authorised person (government) to discuss the home education of the child and, at the meeting, show any home education documents to the authorised person;
 - (c) if registration of a child for home education is renewed under the [Act](#), section 137, and the director-general requests that the parents meet with an authorised person (government)—within 10 school days after the request, or at another time approved by the director-general, the parents must—
 - (i) meet with an authorised person (government) to discuss the home education of the child; and
 - (ii) at the meeting, show any home education documents to the authorised person.
- (2) In this section:

current registration means registration of a child for home education under the [Act](#), section 131 (3), that is in force.

home education documents, in relation to a child’s home education, means the following:

- (a) programs, materials, and other records for use in the child’s home education;
- (b) a statement or documents that show the home base for the child’s home education meets the requirements under the [Act](#), section 132 (1) (g).

Examples—documents

- photographs
- video recordings

9 Information for renewal of registration application—Act, s 137 (2) (b)

- (1) The following information is prescribed:
- (a) the full names of the child’s parents;
 - (b) the parents’ contact details;
Examples
 - email address
 - phone number
 - postal address
 - (c) a certified copy of a document that shows the parents have parental responsibility for the child;
Examples
 - child’s birth certificate
 - adoption order under the *Adoption Act 1993*, pt 3
 - parentage declaration under the *Parentage Act 2004*, s 19
 - (d) the child’s name as shown on the certificate of registration;
 - (e) the child’s date of birth;
 - (f) the address of the home base from which the home education will be carried out;
 - (g) the most recent home education report for the child;
 - (h) a written statement in accordance with subsection (2).
- (2) A written statement under subsection (1) (h) must be completed by the parents of the child who is the subject of the application, and state how—
- (a) for the most recent period of registration—
 - (i) the parents have provided a high-quality education and educational opportunities for the child; and

- (ii) the parents have used strategies to encourage their child to learn; and
 - (iii) the plan or approach for the child's home education has delivered an education consistent with the principles mentioned in the [Act](#), section 128 (d); and
- (b) the matters mentioned in paragraph (a) will continue to be provided, or delivered, during the period of renewed registration.

Note 1 The application for renewal of registration, with the information outlined in this section, must be made not later than 3 months before the end of the registration (see [Act](#), s 137 (2) (c)).

Note 2 The parents must tell the director-general within 28 days if information on the register changes or the child stops living, or usually living, in the ACT (see [Act](#), s 132 (1) (e) (ii)).

10 **Home education reports about educational progress of child—Act, s 138 (2)**

- (1) A home education report must include examples of the child's educational progress.
- (2) Despite subsection (1), if a child only receives part of the child's education through home education, the report only needs to include examples of the child's educational progress that are relevant to the home education.
- (3) In this section:
educational progress, of a child, means the child's—
 - (a) spiritual, emotional, social and physical development; and
 - (b) intellectual development, including development in literacy and numeracy.

11 Home education register—Act, s 139 (2)

The following particulars are prescribed:

- (a) the child's full name as shown on the document provided under section 7 (e);
- (b) the full name by which the child is known, if different from the name on the document mentioned in paragraph (a);
- (c) the child's date of birth;
- (d) the child's gender;
- (e) a unique identifying number for the child;
- (f) the full names of the child's parents;
- (g) the total period for which the child is registered for home education, including the dates on which the period begins and ends;
- (h) the address of the home base from which the home education will be carried out.

Note The parents must tell the director-general within 28 days if the information on the register changes (see [Act](#), s 132 (1) (e) (i)).

[1.3] New dictionary

insert

Dictionary

(see s 2A)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this regulation.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- child
- director-general (see s 163)
- external territory
- foreign country
- home address
- may (see s 146)
- must (see s 146)
- State.

Note 3 Terms used in this regulation have the same meaning that they have in the [Education Act 2004](#) (see [Legislation Act](#), s 148). For example, the following terms are defined in the [Education Act 2004](#), dict:

- authorised person (government)
- home education
- home education report (see s 127C)
- new registration (see s 127C)
- parent (see s 6)
- registrar
- school board
- staff
- staff member
- student.

birth certificate, for a child, means the child’s birth certificate, or a certified extract about the child’s birth from the register, under the *Births, Deaths and Marriages Registration Act 1997* or a corresponding law of a State, external territory or foreign country.

parental responsibility—see the *Children and Young People Act 2008*, section 15.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 26 October 2017.

2 Notification

Notified under the [Legislation Act](#) on 9 December 2019.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Education Amendment Bill 2019, which originated in the Legislative Assembly as the Education Amendment Bill 2017 and was passed by the Assembly on 28 November 2019.

Clerk of the Legislative Assembly