



Australian Capital Territory

Education Amendment Act 2022

A2022-10

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Australian Capital Territory

Education Amendment Act 2022

A2022-10

An Act to amend the *Education Act 2004* and the *Education Regulation 2005*,
and for other purposes

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

J2021-167

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Education Amendment Act 2022*.

2 Commencement

This Act commences on 20 December 2022.

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

3 Legislation amended

This Act amends the *Education Act 2004* and the *Education Regulation 2005*.

Note This Act also amends other legislation (see sch 1).

7 New sections 10AA and 10AB

in division 2.2.1, insert

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).

8 New chapter 2A

insert

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.

171 **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;
 - (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.

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

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.

170 Suspension—government and Catholic system schools—delegation

The decision-maker for a government school or Catholic system school may delegate the decision-maker's powers under this part in relation to suspending a student at a school to the principal of the school.

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;
 - (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.

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

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;
 - (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.

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

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;

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 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.

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.

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

omit

10 Sections 104 and 105

omit

**11 Student transfer register
Section 146A**

omit

12 New chapter 10

insert

**Chapter 10 Transitional—Education
Amendment Act 2022**

**Part 10.1 Education Amendment
Act 2022—part 2**

304 Definitions—pt 10.1

In this part:

commencement day means the day the *Education Amendment Act 2022*, part 2 commences.

pre-amendment Act means this Act, as in force immediately before the commencement day.

305 Government school suspensions

- (1) This section applies if—
 - (a) before the commencement day, a student at a government school was suspended under the pre-amendment Act, section 36 (3) (Suspension, exclusion or transfer of student by director-general); and
 - (b) immediately before the commencement day, the suspension had not ended.
- (2) The pre-amendment Act continues to apply to the suspension.

306 Government school immediate suspensions

- (1) This section applies if—
 - (a) before the commencement day, a student at a government school was immediately suspended under the pre-amendment Act, section 36 (6); and
 - (b) immediately before the commencement day, the immediate suspension had not ended.
- (2) The pre-amendment Act continues to apply to the immediate suspension.

307 Government school exclusions

- (1) This section applies if, before the commencement day, a student was excluded from all government schools under the pre-amendment Act, section 36 (3).
- (2) The student is, on the commencement day, taken to be excluded from enrolling at any government school under section 17ZA (Exclusion—government schools).

308 Non-government school suspensions

- (1) This section applies if—
 - (a) before the commencement day, a student at a non-government school was suspended under the pre-amendment Act—
 - (i) section 104 (3) (Suspension, transfer or exclusion of students—Catholic systemic schools); or
 - (ii) section 105 (2) (Suspension or exclusion of students—other non-government schools); and
 - (b) immediately before the commencement day, the suspension had not ended.
- (2) The pre-amendment Act continues to apply to the suspension.

309 Non-government school immediate suspensions

- (1) This section applies if—
 - (a) before the commencement day, a student at a non-government school was immediately suspended under the pre-amendment Act—
 - (i) section 104 (6); or
 - (ii) section 105 (5); and
 - (b) immediately before the commencement day, the immediate suspension had not ended.
- (2) The pre-amendment Act continues to apply to the immediate suspension.

310 Catholic systemic schools exclusions

- (1) This section applies if, before the commencement day, a student was excluded from all Catholic systemic schools under the pre-amendment Act, section 104 (3).

- (2) The student is, on the commencement day, taken to be excluded from enrolling at any Catholic system school under section 17ZF (Exclusion—Catholic system schools).

311 Student transfer register

The student transfer register kept under the pre-amendment Act, section 146A is, on the commencement day, taken to be the student movement register under section 10AA.

Part 10.2 Transitional regulations

312 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Education Amendment Act 2022*.
- (2) A regulation may modify this chapter (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this chapter.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

Part 10.3 Expiry

313 Expiry—ch 10

This chapter expires 12 months after the day it commences.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

13 Reviewable decisions Schedule 1, item 12

substitute

| | | | | |
|-----|------|---|-------------------|------------------|
| 12 | 17H | suspend student from a government school | parent of student | director-general |
| 12A | 17P | transfer student from a government school | parent of student | director-general |
| 12B | 17ZA | exclude student from enrolling at any government school | parent of student | director-general |

14 Dictionary, new definition of *Catholic system school*

insert

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

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.

15 Dictionary, definition of *compulsory education age*

substitute

compulsory education age—see section 9.

16 Dictionary, definition of *decision-maker*

substitute

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.

17 Dictionary, new definitions

insert

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

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.

18 Dictionary, definition of *exclusion*

omit

19 Dictionary, new definitions

insert

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

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

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.

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

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.

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.

23 **Child of compulsory education age—participation requirement**
Section 10D (1) (b)

omit

school

substitute

government or non-government school

24 **Giving information notice**
Section 11C (2) (c)

omit

a school

substitute

a government or non-government school

25 **Section 11C (2) (d)**

omit

school

substitute

government or non-government school

26 **Establishing government schools etc**
Section 20 (2) (b) and note

substitute

(b) the levels of education to be provided by government schools.

27 Section 20B heading

substitute

20B Impacts of closing or amalgamating government schools

28 Section 20B (1)

omit

a school

substitute

a government school

**29 Operation of government schools
Section 21 (3)**

omit

boarding facilities

substitute

residential boarding services

**30 Education to be free
Section 26 (2) (a)**

omit

course money

substitute

tuition fees

31 Section 26 (6), definition of *course money*

substitute

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

**32 Approved educational courses for students at government schools
Section 31 (1)**

after

the school

insert

(an *approved educational course (government)*)

33 Chapter 4

substitute

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.

34 Offences on school premises
Section 147 (5), definition of *school premises*

omit

a school

substitute

a government or non-government school

**35 Evidence—certificate signed by principal etc
Section 153A (2)**

substitute

- (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.
- (2A) 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.

**36 Declaration—COVID-19 emergency
Section 153B (2) (f) and (g)**

substitute

- (f) section 125E, definition of *register of enrolments and attendances*, paragraph (a) (ii) and (b) (ii);
- (g) section 125J (Nonattendance at registered schools);
- (ga) the *Education Regulation 2005*, schedule 2, standard 2.16 (Encouraging attendance);

37 New section 153C*insert***153C Extending in-principle approval—COVID-19 emergency**

- (1) This section applies if—
 - (a) a declaration under section 153B (2) is in force; and
 - (b) an in-principle approval will, or is likely to, expire while the declaration is in force.
- (2) The Minister may, in writing, extend the period of the in-principle approval for not longer than 12 months.
- (3) This section expires on the day the *COVID-19 Emergency Response Act 2020* expires.

**38 Regulation-making power
Section 155 (3) and (4)***substitute*

- (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).

39 **New part 10.1A***insert***Part 10.1A Education Amendment
Act 2022—pt 3****311A Definitions—pt 10.1A**

In this part:

commencement day means the day the *Education Amendment Act 2022*, part 3 commences.

pre-amendment Act means this Act, as in force immediately before the commencement day.

311B Appointment of registrar

An appointment of a Registrar of Non-Government Schools under the pre-amendment Act, section 77, that is in force immediately before the commencement day is, on the commencement day, taken to be an appointment of a registrar under section 73.

311C Register of non-government schools

The register of non-government schools kept under the pre-amendment Act, section 79 is, on the commencement day, taken to be the register of non-government schools under section 106.

**311D Application for in-principle approval for provisional
registration of school**

- (1) This section applies if—
- (a) before the commencement day, a person applied for in-principle approval for provisional registration of a non-government school under the pre-amendment Act, section 83; and

- (b) immediately before the commencement day, the application had not been—
 - (i) withdrawn by the applicant; or
 - (ii) decided by the Minister.
- (2) The in-principle application is, on the commencement day, taken to be an application for in-principle approval for registration of a non-government school under section 86.

311E Application for in-principle approval for registration of school at additional campus—generally

- (1) This section applies if—
 - (a) before the commencement day, a person applied for in-principle approval for registration of a non-government school at an additional campus under the pre-amendment Act, section 83; and
 - (b) the school either—
 - (i) had not previously operated at the campus; or
 - (i) had operated at the campus, but not for 2 years or more before the date of the application; and
 - (c) immediately before the commencement day, the application had not been—
 - (i) withdrawn by the applicant; or
 - (ii) decided by the Minister.
- (2) The application is, on the commencement day, taken to be an application to amend the school’s registration under section 97.

311F Application for in-principle approval for registration of school at additional campus—within 2 years

- (1) This section applies if—
 - (a) before the commencement day, a person applied for in-principle approval for registration of a non-government school at an additional campus under the pre-amendment Act, section 83; and
 - (b) the school had previously operated at the campus less than 2 years before the date of the application; and
 - (c) immediately before the commencement day, the application had not been—
 - (i) withdrawn by the applicant; or
 - (ii) decided by the Minister.
- (2) The application is, on the commencement day, taken to be notice to the registrar under section 96.

311G Application for in-principle approval for registration of school at additional educational level—generally

- (1) This section applies if—
 - (a) before the commencement day, a person applied for in-principle approval for registration of a non-government school at an additional educational level under the pre-amendment Act, section 83; and
 - (b) the school either—
 - (i) had not previously provided that level of education; or
 - (i) had provided that level of education, but not for 2 years or more before the date of the application; and

- (c) immediately before the commencement day, the application had not been—
 - (i) withdrawn by the applicant; or
 - (ii) decided by the Minister.
- (2) The application is, on the commencement day, taken to be an application to amend the school’s registration under section 97.

311H Application for in-principle approval for registration of school at additional educational level—within 2 years

- (1) This section applies if—
 - (a) before the commencement day, a person applied for in-principle approval for registration of a non-government school at an additional educational level under the pre-amendment Act, section 83; and
 - (b) the school had previously provided that level of education less than 2 years before the date of the application; and
 - (c) immediately before the commencement day, the application had not been—
 - (i) withdrawn by the applicant; or
 - (ii) decided by the Minister.
- (2) The application is, on the commencement day, taken to be notice to the registrar under section 96.

311I In-principle approval for provisional registration of school

- (1) This section applies if, immediately before the commencement day, a person has in-principle approval for provisional registration of a non-government school under the pre-amendment Act, section 84.

- (2) Subject to subsection (3), the in-principle approval is, on the commencement day, taken to be in-principle approval under section 88.
- (3) The in-principle approval—
 - (a) expires on the later of the following:
 - (i) 2 years after the day the old in-principle approval was given;
 - (ii) the proposed starting day; and
 - (b) is otherwise subject to the same conditions that applied to the approval before the commencement day.

311J Application for provisional registration of school

- (1) This section applies if—
 - (a) before the commencement day, a person applied for provisional registration of a non-government school under the pre-amendment Act, section 85; and
 - (b) immediately before the commencement day, the application had not been—
 - (i) withdrawn by the applicant; or
 - (ii) decided by the Minister.
- (2) The application is, on the commencement day, taken to be an application for registration of a non-government school under section 89.

311K Provisional registration of a school

- (1) This section applies if, immediately before the commencement day, a non-government school was provisionally registered under the pre-amendment Act, section 86.
- (2) Subject to subsection (3), the school is, on the commencement day, taken to be registered under section 92.
- (3) The school's registration—
 - (a) does not expire on the day stated in the provisional registration, but continues until the registration is cancelled or surrendered; and
 - (b) is subject to the conditions mentioned in section 93; and
 - (c) is otherwise subject to any conditions in the provisional registration that are not inconsistent with the conditions mentioned in section 93.
- (4) The registrar must—
 - (a) enter the school in the register of non-government schools; and
 - (b) give the proprietor of the school a registration certificate for the school in accordance with section 95.

311L Application for registration of school

- (1) This section applies if—
 - (a) before the commencement day, a person applied for registration of a non-government school under the pre-amendment Act, section 87; and
 - (b) immediately before the commencement day, the application had not been—
 - (i) withdrawn by the applicant; or
 - (ii) decided by the Minister.

- (2) The application is, on the commencement day, taken to be an application for registration of a non-government school under section 89.

311M Registration of school

- (1) This section applies if, immediately before the commencement day, a non-government school was registered under the pre-amendment Act, section 88 (including registration renewed under the pre-amendment Act, section 97).
- (2) Subject to subsection (3), the school is, on the commencement day, taken to be registered under section 92.
- (3) The school's registration—
 - (a) does not expire on the day stated in the old registration, but continues until the registration is cancelled or surrendered; and
 - (b) is subject to the conditions mentioned in section 93; and
 - (c) is otherwise subject to any conditions on the registration that are not inconsistent with the conditions mentioned in section 93.
- (4) However, no action under this Act may be taken against the school for failing to comply with the conditions mentioned in section 93 (a) and (b) during the first 9 months following the commencement day.
- (5) The registrar must give the proprietor of the school a revised registration certificate for the school in accordance with section 95.

311N Application for registration of school at additional campus—generally

- (1) This section applies if—
 - (a) before the commencement day, a proprietor of a registered school applied for registration of the school at an additional campus under the pre-amendment Act, section 88A; and

- (b) the school either—
 - (i) had not previously operated at the campus; or
 - (i) had operated at the campus, but not for 2 years or more before the date of the application; and
 - (c) immediately before the commencement day, the application had not been—
 - (i) withdrawn by the applicant; or
 - (ii) decided by the Minister.
- (2) The application is, on the commencement day, taken to be an application to amend the school’s registration under section 97.

3110 Application for registration of school at additional campus—within 2 years

- (1) This section applies if—
- (a) before the commencement day, a proprietor of a registered school applied for registration of the school at an additional campus under the pre-amendment Act, section 88A; and
 - (b) the school had previously operated at the campus less than 2 years before the date of the application; and
 - (c) immediately before the commencement day, the application had not been—
 - (i) withdrawn by the applicant; or
 - (ii) decided by the Minister.
- (2) The application is, on the commencement day, taken to be notice to the registrar under section 96.

311P Application for registration of school at additional educational level—generally

- (1) This section applies if—
 - (a) before the commencement day, a proprietor of a registered school applied for registration of the school at an additional educational level under the pre-amendment Act, section 89; and
 - (b) the school either—
 - (i) had not previously provided that level of education; or
 - (i) had provided that level of education, but not for 2 years or more before the date of the application; and
 - (c) immediately before the commencement day, the application had not been—
 - (i) withdrawn by the applicant; or
 - (ii) decided by the Minister.
- (2) The application is, on the commencement day, taken to be an application to amend the school’s registration under section 97.

311Q Application for registration of school at additional educational level—within 2 years

- (1) This section applies if—
 - (a) before the commencement day, a proprietor of a registered school applied for registration of the school at an additional educational level under the pre-amendment Act, section 89; and
 - (b) the school had previously provided that level of education less than 2 years before the date of the application; and

- (c) immediately before the commencement day, the application had not been—
 - (i) withdrawn by the applicant; or
 - (ii) decided by the Minister.
- (2) The application is, on the commencement day, taken to be notice to the registrar under section 96.

311R Grounds for regulatory action

- (1) This section applies if the Minister—
 - (a) is satisfied on reasonable grounds that, within the 12 months immediately before the commencement day, a condition of a school's registration under the pre-amendment Act, section 91 had been contravened; and
 - (b) the Minister had not cancelled the school's registration in relation to the contravention under the pre-amendment Act, section 95.
- (2) The Minister may take regulatory action against the proprietor of the registered school in relation to the contravention under section 122.

311S Register of enrolments and attendances— non-government schools

- (1) A register of enrolments and attendances kept by the principal of a registered school under the pre-amendment Act, section 99 is, on the commencement day, taken to be a register of enrolments and attendances under section 125E, definition of *register of enrolments and attendances*, paragraph (a).
- (2) A register of enrolments and attendances kept by a person conducting an approved educational course (non-government) under the pre-amendment Act, section 99 is, on the commencement day, taken to be a register of enrolments and attendances under section 125E, definition of *register of enrolments and attendances*, paragraph (b).

311T Appointment of authorised persons (non-government)

An appointment of an authorised person (non-government) under the pre-amendment Act, section 119, that is in force immediately before the commencement day is, on the commencement day, taken to be an appointment of an authorised person (non-government) under section 125M.

40 Section 313

substitute

313 Expiry—ch 10

- (1) Part 10.1 expires 12 months after the day it commences.
- (2) The remainder of this chapter expires 12 months after the day this section commences.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

**41 Reviewable decisions
Schedule 1, items 13 to 21**

substitute

| | | | | |
|----|---------|--|--------------------------------------|----------|
| 13 | 88 | refuse in-principle approval | applicant for in-principle approval | Minister |
| 14 | 92 (2) | refuse to register non-government school | applicant for registration of school | Minister |
| 15 | 93 | register non-government school subject to condition | applicant for registration of school | Minister |
| 16 | 101 (3) | refuse to amend non-government school's registration | proprietor of non-government school | Minister |

| | | | | |
|----|---------|---|-------------------------------------|-----------|
| 17 | 102 (1) | amend non-government school's registration subject to condition | proprietor of non-government school | Minister |
| 18 | 120 | give compliance direction | proprietor of non-government school | registrar |
| 19 | 125A | take regulatory action | proprietor of non-government school | Minister |

42 Dictionary, note 2

insert

- corporation
- Corporations Act
- public notice

43 Dictionary, definitions of *approved educational course* etc

substitute

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).

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

44 Dictionary, definition of *boarding facilities*

omit

45 Dictionary, new definitions

insert

compliance direction—see section 120 (2).

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.

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

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

46 Dictionary, definition of *in-principle approval*

substitute

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

47 Dictionary, new definitions

insert

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

48 Dictionary, definition of *non-government school*

substitute

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

49 Dictionary, new definitions

insert

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.

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

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

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).

50 Dictionary, definition of *proposed opening day*

omit

51 Dictionary, new definitions

insert

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).

52 Dictionary, definition of *registered non-government school*

substitute

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

53 Dictionary, new definition of *registered school*

insert

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

54 Dictionary, definitions of *register of enrolments and attendances* and *register of non-government schools*

substitute

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.

55 Dictionary, new definition of *registrable change*

insert

registrable change—see section 97 (1).

56 Dictionary, definition of *registrar*

substitute

registrar—see section 73.

57 Dictionary, new definitions

insert

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.

58 Dictionary, definition of *school*

substitute

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)*.

59 Dictionary, new definition of *show cause notice*

insert

show cause notice—see section 124.

60 Dictionary, definition of *student member*

omit

Part 4 Education Regulation 2005

61 New part 1A

insert

Part 1A Compulsory education

2AA Student movement register—Act, s 10AA

- (1) The following information is prescribed for the [Act](#), section 10AA (2) (a):
- (a) the name of the school;
 - (b) the name of the student;
 - (c) the day the student was enrolled at the school;
 - (d) if the student was previously—
 - (i) enrolled at another education provider—the name of the education provider (if known); or
 - (ii) registered for home education—whether the student was registered for home education in the ACT or another State (if known);
- Note* **State** includes the Northern Territory (see [Legislation Act](#), dict).
- (e) the name and contact details of the student’s parents.
- (2) The following information is prescribed for the [Act](#), section 10AA (2) (b):
- (a) the name of the school;
 - (b) the name of the student;
 - (c) the day the enrolment ended;

- (d) the reason the enrolment ended;
 - (e) if the student is, or is to be, enrolled at another education provider—the name of the new education provider (if known);
 - (f) if the student is, or is to be, registered for home education—whether the registration is in the ACT or another State (if known);
 - (g) if the student is not to be enrolled at another education provider, and is not to be registered for home education—the proposed arrangements for the student’s education after the enrolment ends (if known);
 - (h) the name and contact details of the student’s parents.
- (3) The following information is prescribed for the [Act](#), section 10AA (3) (a):
- (a) the name of the student;
 - (b) the day the student was registered for home education;
 - (c) if the student was previously—
 - (i) enrolled at an education provider—the name of the education provider (if known); or
 - (ii) registered for home education in another State—the State where the student was registered for home education (if known);
 - (d) the name and contact details of the student’s parents.

(4) The following information is prescribed for the [Act](#), section 10AA (3) (b):

- (a) the name of the student;
- (b) the day the registration ended;
- (c) the reason the registration ended;

Note Registration for home education ends if the registration is cancelled under the [Act](#), s 135, or expires and is not renewed under the [Act](#), s 137.

- (d) if the student is, or is to be, enrolled at an education provider—the name of the education provider (if known); or
- (e) if the student is, or is to be, registered for home education in another State—the State where the student is to be home educated (if known);
- (f) if the student is not to be enrolled at an education provider, and is not to be registered for home education in another State—the proposed arrangements for the student's education after the registration ends (if known);
- (g) the name and contact details of the student's parents.

62 Section 2B

substitute

2B Requirements for provision of residential boarding services—Act, s 21 (3)

A government school that provides residential boarding services must have policies for the provision of the residential boarding services that comply with AS 5725:2015 (Boarding Standard for Australian schools and residences) as in force from time to time.

Note AS 5725:2015 may be purchased at www.standards.org.au.

63 Part 3*substitute***Part 3 Non-government schools****5 Registration standards—Act, s 84**

The registration standards are set out in schedule 2.

6 In-principle approval application—Act, s 86 (2) (c)

The following information is prescribed:

- (a) the proposed name of the school (if known);
- (b) the applicant's name and contact details;
- (c) the applicant's ACN or ABN;
- (d) the name and contact details for the proposed principal of the school (if known);
- (e) any proposed educational courses, characteristics of the school, or objectives for the school that the applicant believes will assist the Minister's consideration of the application.

6A Registration application—Act, s 89 (2) (e)

The following information is prescribed:

- (a) the proposed name of the school (if known);
- (b) the applicant's name and contact details;
- (c) the applicant's ACN or ABN;

- (d) evidence showing that the applicant is registered under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth);
- (e) evidence showing how the school proposes to comply with the registration standards.

6B Notifiable changes notice—Act, s 96 (4) (d)

The following information is prescribed:

- (a) for a change to stop operating the school at a registered campus—the location of the campus;
- (b) for a change to stop providing a level of education at a registered campus—
 - (i) the level of education to be stopped; and
 - (ii) the campus where the level of education is to be stopped;
- (c) for a change to stop providing residential boarding services at a registered campus—the campus where the residential boarding services are to be stopped;
- (d) for a change to restart operating at a previously registered campus—
 - (i) the location of the campus; and
 - (ii) the levels of education the proprietor proposes the school provide at the campus; and
 - (iii) whether the proprietor proposes the school provide residential boarding services at the campus; and
 - (iv) if not all proposed levels of education are to be provided at the campus on the proposed change day—the day the proprietor proposes to start providing each level of education at the campus;

- (e) for a change to restart providing a level of education at a campus—
 - (i) the level of education to be provided; and
 - (ii) the campus where the new level of education is to be provided;
- (f) for a change to restart providing residential boarding services at a campus—the campus where the new residential boarding services are to be provided.

6C Registration amendment application—Act, s 98 (1) (h)

The following information is prescribed:

- (a) the name of the school;
- (b) the applicant's name and contact details;
- (c) for an amendment to operate at a new campus—
 - (i) information about proximity of the new campus to existing campus grounds (for example, the new campus is adjoining the existing campus, the new campus shares a public transport route with the existing campus); and
 - (ii) any proposed change to the location of the school's administration office;
- (d) for an amendment to stop operating at a registered campus—the location of the campus;
- (e) for an amendment to stop providing a level of education at a registered campus—the education level;

- (f) for an amendment to transfer the school's registration to a new proprietor—
 - (i) the proposed new proprietor's name and contact details; and
 - (ii) evidence showing that the new proprietor is a corporation; and
 - (iii) the proposed new proprietor's ACN or ABN; and
 - (iv) evidence showing that the proposed new proprietor is registered under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth);
- (g) a summary of the reasons for the proposed amendment;
- (h) evidence of consultation with students, parents and staff about the proposed amendment.

6D Applicant to update information

If any information in an application mentioned in sections 6 to 6C changes before the application is decided, the applicant must give the Minister written notice of the details of the change.

64 New schedule 2*insert***Schedule 2 Non-government schools registration standards**

(see s 5)

Part 2.1 Governance**2.1 Incorporation**

The proprietor of a registered school must be a corporation.

2.2 Not-for-profit

The proprietor of a registered school must be registered under the [Australian Charities and Not-for-profits Commission Act 2012](#) (Cwlth).

2.3 Governance structure

- (1) The proprietor of a registered school must ensure the governance structure of the school enables the school to—
 - (a) fulfill its legal obligations; and
 - (b) be financially viable; and
 - (c) operate safely.
- (2) The proprietor must ensure that the governance responsibilities of the governing body of the school are separate from the day-to-day control and management responsibilities of the principal of the school.

2.4 Financial viability

- (1) The proprietor of a registered school must ensure that the school has access to adequate financial resources for its viable operation.
- (2) The proprietor must ensure that the school's funding model enables delivery of the school's educational programs to the number of students at the school, at the levels of education for which the school is registered.
- (3) The proprietor must ensure that the school's—
 - (a) finances are managed in accordance with the requirements of the [Corporations Act](#); and
 - (b) financial records are audited annually; and
 - (c) financial records and audit reports are made available to the registrar on request.

2.5 Policies and procedures

- (1) The proprietor of a registered school must ensure that the school has policies and procedures in place to ensure the school complies with the registration standards.
- (2) The proprietor must ensure that students, parents and staff are consulted about the following policies for the school:
 - (a) the enrolment policy under standard 2.8;
 - (b) the complaints policy under standard 2.9;
 - (c) the behaviour management policy under standard 2.18.
- (3) The proprietor must ensure that—
 - (a) current and prospective students, parents and staff are made aware of the school's policies and procedures; and

- (b) the school's policies and procedures are made available to the public; and

Example—made available to the public

published on the school's website

- (c) the school's policies and procedures are made available to the registrar on request.

2.6 Annual statement

- (1) The proprietor of a registered school must ensure that a written statement is prepared annually, describing how the school has complied with the registration standards during the year.
- (2) The proprietor must ensure that the school's annual statement is made available to the public.

Example—made available to the public

- included in a publicly available annual report
- published on the school's website

2.7 Continuous improvement

- (1) The proprietor of a registered school must ensure that the school has processes in place to ensure continuous improvement in the operation of the school.
- (2) The proprietor must ensure that the school has processes to—
- (a) consult students, parents and staff about the operation of the school, including its educational programs; and
 - (b) regularly review complaints and safety incidents; and
 - (c) plan, monitor and assess strategies for improving the operation of the school.

- (3) The proprietor must ensure that the school keeps written records of—
 - (a) the school’s processes for improving its operation; and
 - (b) how the strategies are to be monitored and assessed; and
 - (c) whether the strategies have been successful in improving the operation of the school.

2.8 Enrolment policy, procedures and contracts

- (1) The proprietor of a registered school must ensure that the school has—
 - (a) a written enrolment policy; and
 - (b) written enrolment procedures; and
 - (c) a written enrolment contract.
- (2) The proprietor must ensure that the school’s enrolment policy and enrolment contract clearly state the grounds on which a student’s enrolment may be ended.
- (3) The proprietor must ensure that the school’s enrolment policy and enrolment procedures—
 - (a) have regard to the effect on a student of ending the student’s enrolment; and
 - (b) apply natural justice and procedural fairness.

Note A school must consult students, parents and staff about the school’s enrolment policy and ensure it is available to current and prospective students, parents and staff (see standard 2.5).

2.9 Complaints policy and procedures

- (1) The proprietor of a registered school must ensure that the school has—
 - (a) a written complaints policy; and
 - (b) written complaints procedures.
- (2) The proprietor must ensure that the school's complaints policy and complaints procedures—
 - (a) include procedures for receiving, assessing, investigating and resolving complaints; and
 - (b) take into account the impact of the issues involved in the complaint on all students involved in the complaint; and
 - (c) apply natural justice and procedural fairness.

Note A school must consult students, parents and staff about the school's complaints policy and ensure it is available to current and prospective students, parents and staff (see standard 2.5).

Part 2.2 Educational programs

2.10 Curriculum

- (1) The proprietor of a registered school must ensure that the school has a curriculum framework in place for the organisation and implementation of the school's educational program.
- (2) The proprietor of a school that is registered to provide a level of education from kindergarten to year 10 must ensure the school's educational program complies with the requirements of at least 1 of the following:
 - (a) the Australian curriculum;
 - (b) the International Baccalaureate Primary Years Program;
 - (c) the International Baccalaureate Middle Years Program;

- (d) the Australian Steiner Curriculum Framework;
 - (e) the Montessori National Curriculum Framework;
 - (f) another curriculum recognised by ACARA.
- (3) The proprietor of a school that is registered to provide a level of education from year 11 to year 12 must ensure the school's educational program complies with the requirements of at least 1 of the following:
- (a) the Board of Senior Secondary Studies;
 - (b) a diploma program authorised by the International Baccalaureate;
 - (c) the *Education Act 1990* (NSW), section 12 (Curriculum for Higher School Certificate candidates).
- (4) The proprietor must ensure that the nature and content of its educational courses are appropriate for the levels of education the school is registered to provide.
- (5) The proprietor must ensure that the school makes reasonable adjustments to the way the curriculum is delivered for students with disability and students with complex needs.
- (6) A registered school's educational program may include, in addition to the courses required under subsection (2) or (3), other courses, programs, studies or subjects decided by the principal of the school.
- (7) In this section:

Australian curriculum means the national curriculum as agreed by the Ministerial Council and administered by ACARA under the *Australian Curriculum, Assessment and Reporting Authority Act 2008* (Cwlth).

Australian Curriculum, Assessment and Reporting Authority (or *ACARA*) means the body established under the *Australian Curriculum, Assessment and Reporting Authority Act 2008* (Cwlth), section 5 (1).

Board of Senior Secondary Studies means the board established under the *Board of Senior Secondary Studies Act 1997*, section 4 (1).

2.11 Educational program accessibility

- (1) The proprietor of a registered school must ensure that the school makes information about the school's educational program available to students, parents and staff.

Example—makes available

publishes on the school's website

- (2) The proprietor must ensure that the school consults students, parents and staff about significant changes to the school's educational program.

2.12 Educational performance

The proprietor of a registered school must ensure that—

- (a) the educational performance of each student at the school is assessed, monitored and recorded; and
- (b) each student at the school, and their parents, have access to information about the student's performance; and
- (c) at least twice each year, the parents of each student at the school are given a written report about the student's educational performance and social development at the school.

2.13 Student learning outcomes

The proprietor of a registered school must ensure that the school—

- (a) sets learning outcomes for all students at the school; and
- (b) has processes in place to support all students at the school to achieve their learning outcomes, including processes for making reasonable adjustments to support learning outcomes for students with disability and students with complex needs.

Part 2.3 Safety and welfare**2.14 Protection from harm**

- (1) The proprietor of a registered school must ensure that the school takes all reasonable steps to protect the following people from harm:
 - (a) students at the school;
 - (b) members of staff of the school;
 - (c) other people involved in the school's operation.
- (2) The proprietor must take all reasonable steps to ensure that the school has a safe and effective learning environment.

2.15 National Principles for Child Safe Organisations

The proprietor of a registered school must ensure that the school complies with the National Principles for Child Safe Organisations as in force from time to time.

Note The National Principles for Child Safe Organisations is accessible at childsafefirststeps.gov.au.

2.16 Encouraging attendance

- (1) The proprietor of a registered school must ensure that the school has procedures in place to—
 - (a) ensure students attend school regularly; and
 - (b) help parents to encourage students to attend school regularly.
- (2) The proprietor must ensure that, if the procedures are unsuccessful for a student, the student and their parents are referred to support services that encourage regular school attendance.

2.17 Student movement register

The proprietor of a registered school must ensure that the school has procedures in place to ensure the principal of the school complies with procedures established by the director-general under the [Act](#), section 10AB (Student movement register—procedures).

2.18 Behaviour management policy and procedures

- (1) The proprietor of a registered school must ensure that the school has—
 - (a) a written behaviour policy; and
 - (b) written procedures about behaviour.
- (2) The proprietor must ensure that the school's behaviour policy—
 - (a) deals with the following:
 - (i) for a catholic system school—suspension, expulsion and exclusion of students at the school;
 - (ii) for an independent school—suspension and expulsion of students at the school; and
 - (b) is consistent with the [Act](#), chapter 2A (Suspension, transfer, expulsion and exclusion of students); and

- (c) has regard to the best interests of—
- (i) the student whose behaviour is being considered; and
 - (ii) other students; and
 - (iii) members of staff at the school; and
- (d) applies natural justice and procedural fairness.

Note A school must consult students, parents and staff about the school's behaviour policy and ensure it is available to current and prospective students, parents and staff (see standard 2.5).

Part 2.4 Other operational requirements

2.19 Compliance with territory and Commonwealth laws

- (1) The proprietor of a registered school must ensure that the school complies with all territory and Commonwealth laws that apply to the school.

Examples—applicable territory and Commonwealth laws

- [ACT Teacher Quality Institute Act 2010](#)
- [Australian Education Act 2013](#) (Cwlth)
- [Children and Young People Act 2008](#)
- [Disability Discrimination Act 1992](#) (Cwlth)
- [Discrimination Act 1991](#)
- [Education Act 2004](#)
- [Human Rights Act 2004](#)
- [Ombudsman Act 1989](#)
- [Privacy Act 1988](#) (Cwlth)
- [Senior Practitioner Act 2018](#)
- [Work Health and Safety Act 2011](#)
- [Working with Vulnerable People \(Background Checking\) Act 2011](#)

- (2) The proprietor must ensure that the proprietor, and the school, comply with the conditions of the school's registration.

- (3) The proprietor must tell the registrar within 5 working days, in writing, if any action is taken against the proprietor, or the school, under a territory or Commonwealth law.
- (4) The proprietor, and each other person involved in the management or operation of the school, must comply with any lawful direction given under a territory or Commonwealth law.
- (5) The proprietor, and each other person involved in the management or operation of the school, must make any record the school is required to keep under a territory or Commonwealth law available to the registrar on request.

2.20 Suitability of key individuals for the proprietor

- (1) The proprietor of a registered school must ensure that each key individual for the proprietor is a suitable person to be involved in the governance or management of the school.
- (2) A person is not suitable to be involved in the governance or management of a registered school if the person—
 - (a) is not registered under the *Working with Vulnerable People (Background Checking) Act 2011* to engage in regulated activities involving children; or
 - (b) has been 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) has been 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) is or has been bankrupt or personally insolvent; or

- (e) has been the subject of an adverse finding or action taken by a court, tribunal, commission of inquiry, professional disciplinary body or regulatory authority (in the Territory or elsewhere), if the adverse finding or action relates to—
- (i) dishonest, misleading or deceptive conduct; or
 - (ii) non-compliance with a legal obligation relating to the provision of education; or
 - (iii) a breach of a duty (including a duty of disclosure).

2.21 Teaching staff

The proprietor of a registered school must ensure that each person employed to teach at the school is an approved teacher under the *ACT Teacher Quality Institute Act 2010*.

Note Approved teachers include registered teachers and people with a permit to teach, but not if the registration or permit is suspended (see *ACT Teacher Quality Institute Act 2010*, s 9).

2.22 Compliance with Working with Vulnerable People (Background Checking) Act 2011

- (1) The proprietor of a registered school must ensure that each person carrying out a regulated activity for the school complies with the requirements of the *Working with Vulnerable People (Background Checking) Act 2011*.

- (2) In this section:

regulated activity—see the *Working with Vulnerable People (Background Checking) Act 2011*, section 8 (1).

Examples—regulated activities

- child education services
- child accommodation services
- counselling and support services for children
- commercial services for children

2.23 Buildings, facilities and grounds

The proprietor of a registered school must ensure that the school's buildings, facilities and grounds comply with all territory and Commonwealth laws that apply to the buildings, facilities or grounds, including laws about planning, sustainability, building and work health and safety.

2.24 Educational facilities

The proprietor of a registered school must ensure that the school's educational facilities are—

- (a) sufficient to enable the school to effectively provide the educational program offered by the school; and
- (b) suitable for the ages of the students attending the school.

2.25 Residential boarding services

The proprietor of a registered school that provides residential boarding services must ensure that the residential boarding services comply with AS 5725:2015 (Boarding Standard for Australian schools and residences) as in force from time to time.

Note AS 5725:2015 may be purchased at www.standards.org.au.

2.26 Emergency management plan

- (1) The proprietor of a registered school must ensure that the school has an emergency management plan.
- (2) The proprietor must ensure that, in developing the emergency management plan, the school has regard to AS 3745-2010 (Planning for emergencies in facilities) as in force from time to time.

Note AS 3745-2010 may be purchased at www.standards.org.au.

65 Dictionary, note 2*insert*

- Commonwealth
- corporation
- Corporations Act
- the Territory

66 Dictionary, note 3*insert*

- approved educational course (non-government) (see s 125D (1))
- Catholic system school
- educational course
- education provider (see s 9A)
- governing body
- independent school
- key individual
- proprietor

67 Dictionary, new definitions*insert*

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.

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 ACT Teacher Quality Institute Act 2010

[1.1] Section 27 (2), definition of *home education*

substitute

home education—see the [Education Act 2004](#), dictionary.

Part 1.2 Children and Young People Act 2008

[1.2] Section 731 (1) (f)

omit

government school or non-government school

substitute

government or non-government school

[1.3] Dictionary, new definitions of *government school* and *government or non-government school*

insert

government school—see the [Education Act 2004](#), dictionary.

government or non-government school—see the [Education Act 2004](#), dictionary.

Part 1.3 Crimes Act 1900

[1.4] Dictionary, new definition of *government or non-government school*

insert

government or non-government school—see the [Education Act 2004](#), dictionary.

Part 1.4 Planning and Development Regulation 2008

[1.5] Section 108 (1) (a) (i) and (ii)

substitute

- (i) if the land is to be used for a new non-government school—the holder of an in-principle approval for registration of a school at the location of the land; or
- (ii) if the land is to be used for a new campus of a registered non-government school—the proprietor of the non-government school; or

[1.6] Section 108 (4)

insert

in-principle approval, for registration of a non-government school—see the [Education Act 2004](#), section 86.

non-government school—see the [Education Act 2004](#), dictionary.

proprietor, of a non-government school—see the [Education Act 2004](#), dictionary.

Part 1.5 **Rates Act 2004**

[1.7] Section 8 (1), definition of *rateable land*, paragraph (b) (vi)

omit

school

substitute

non-government school

[1.8] Section 8 (2), definition of *school*

substitute

non-government school—

- (a) see the *Education Act 2004*, dictionary; and
- (b) includes any playground belonging to, or used in relation to, the school.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 7 April 2022.

2 Notification

Notified under the [Legislation Act](#) on 17 June 2022.

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 2022, which was passed by the Legislative Assembly on 8 June 2022.

Clerk of the Legislative Assembly

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