

EXPLANATORY STATEMENT
AUSTRALIAN CAPITAL TERRITORY
EDUCATION (AMENDMENT) ORDINANCE 1988
ORDINANCE NO. 48 OF 1988

The Education Ordinance 1937 (the Principal Ordinance) provides for compulsory education at schools for persons between the ages of five and sixteen and for the registration of "schools" as defined in section 20 of that Ordinance. It is not binding on Government schools.

The Education (Amendment) Ordinance 1988 amends the Principal Ordinance by:-

- . removing graduated penalties and substantially increasing penalties for breaches of the Ordinance;
- . Changing the definition of "school" in section 20 of the Principal Ordinance, to refer to the three levels of education which now exist (i.e. primary school, high school and secondary college);
- . providing a more detailed procedure for the provisional registration, registration, and renewal of registration of schools and consequential amendments regarding extensions of the periods in which to apply for a certificate of registration or its renewal;
- . extending the criteria for cancelling the registration of a school to include any matter relevant to the conditions of registration or provisional registration;
- . substituting a right of appeal to the Administrative Appeals Tribunal instead of the Supreme Court against decisions of the Minister made under Part III of the Principal Ordinance; and
- . adding a provision requiring the notification of Ministerial decisions.

The effect of each of the provisions of the Ordinance is outlined in the Attachment.

**ISSUED BY AUTHORITY OF THE
MINISTER OF STATE FOR THE
ARTS AND TERRITORIES**

EDUCATION (AMENDMENT) ORDINANCE 1988

Section 1 cites the short title of the Ordinance as the Education (Amendment) Ordinance 1988.

Section 2 provides that the Ordinance will come into operation on a date fixed by notice in the Gazette.

Section 3 defines the Principal Ordinance as the Education Ordinance 1937.

Section 4 amends section 5 of the Principal Ordinance (which deals with interpretations) by removing some definitions and defining some further terms.

Section 5 amends section 8 of the Principal Ordinance by:

- . including provisionally registered schools in the categories of schools at which children shall be enrolled;
- . deleting subsection (2); and
- . increasing the penalty for failing to enrol a child who is required under subsection (1) to be enrolled to \$500.

Section 6 increases the penalty for a breach of section 9 of the Principal Ordinance to \$500.

Section 7 amends section 9A of the Principal Ordinance in accordance with current drafting policy and by increasing the penalty for breaching the section to \$500.

Section 8 amends section 15 of the Principal Ordinance by increasing the penalty to \$1,000.

Section 9 amends section 19 of the Principal Ordinance by increasing the amount the court may order a truant's parents to pay for the maintenance and training of their child from \$2 to \$50 per week and substitutes a reference to the Maintenance Ordinance 1968 for a reference to an Act of NSW in its application to the Territory.

Section 10 amends section 20 of the Principal Ordinance by changing the definition of "school" to mean, for the purposes of Part III, any institution at which any person provides or offers to provide education at primary school, high school or secondary college levels excluding a Commonwealth or declared school.

Section 11 amends section 21 of the Principal Ordinance by increasing the penalty to \$1,000; and also substitutes the phrase "education level or levels" for the word "standard".

Paragraph 12 (a) amends section 22 of the Principal Ordinance by omitting subsections (1) and (2) and introducing subsections which change the existing procedure for provisional registration as follows:

- . Subsections 22(1) and (1A) provide that a person may:
 - apply for provisional registration; or
 - apply for additional provisional registration if the person is the principal of a school which is already provisionally registered or registered, and it is desired to change the educational level(s) of the school.
- . Subsection 22(1B) provides that the application is then considered by a panel which is appointed by and reports to the Minister.
- . Subsections 22(2) provides that where the Minister is satisfied, after having received a report from a panel appointed under subsection 22(1B), that the educational, welfare and equipment standards for the school are satisfactory he or she shall direct the Registrar to enter the name of the school on the list of schools and issue a certificate, or additional certificate, of provisional registration.

Paragraph 12(b) amends subsection 22(3) of the Principal Ordinance by inserting the words "and shall issue a certificate, or an additional certificate of provisional registration of the school" after the word "section"

Paragraph 12(c) deletes subsection 22(5) of the Principal Ordinance and inserts the following new subsections:

- . Subsection 22(5) which provides that a certificate or additional certificate of provisional registration issued under subsection 22(3) shall specify the location of the school and the educational level or levels of the school and shall be subject to the following conditions:
 - that the school adequately provide for the safety health and welfare of students;
 - that the nature and content of the instruction offered at the school shall be satisfactory;
 - that the standards approved by the Minister in relation to the organisation, equipment, efficiency of the teaching staff and the manner of conduct of the school be maintained;
 - that the school be maintained and conducted at the location specified in the certificate; and
 - that the school only provide education at the level or levels specified in the certificate.

- . Subsection 22(6) provides that the provisional registration shall remain in force for 12 months from the date of issue or until registration under section 23, whichever occurs first.
- . Subsection 22(7) provides that the Minister may, upon application in writing, approve the prescribed period in relation to the submission of a notice required under subsection 22(1) or (1A).
- . Subsection 22(8) provides that the Minister shall, in approving a period under subsection 22(7), have regard to the immediate need for the school, or the proposed educational level, in the relevant location.
- . Subsection 22(9) defines for the purposes of section 22 the term 'prescribed period' in relation to a notice under subsection 22(1) or (1A).

Paragraph 13(a) amends section 23 of the Principal Ordinance by deleting subsection (1) and inserting the following subsections:

- . Subsection 23(1) provides that where a school is provisionally registered under proposed section 22 the proprietor or principal teacher of the school may apply for registration of the school after 8 months of provisional registration.
 - . Subsection 23(1A) provides that following an application to register a provisionally registered school the Minister shall appoint a panel to report to the Minister on the school.
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- . Subsection 23(1B) provides that where the Minister is satisfied, after having reviewed a report of the school by the panel appointed under new subsection 23(1A), that the school is maintained and conducted in accordance with the certificate of registration the Minister shall direct the Registrar to issue a certificate of registration for a period not exceeding 5 years.
 - . Subsection 23(1C) provides that where the Minister has given a direction under proposed subsection 23(1B) the Registrar shall issue a certificate of registration in accordance with the Minister's direction.

Paragraph 13(b) amends subsection 23(2) by deleting "subsection (1)" and substituting "subsection (1C)".

Paragraph 13(c) amends section 23 of the Principal Ordinance by inserting subsection 23(3) which provides that a certificate of registration issued under subsection 23(1C) shall specify the location of the school and the educational level or levels of the school and be subject to the following conditions:

- . that the school provide adequate facilities to protect the safety, health and welfare of the students;
- . the nature and content of the instruction offered be satisfactory;
- . that the equipment, efficiency of teaching staff, and the manner of conduct of the school be maintained in accordance with the standards approved by the Minister;
- . the school be maintained and conducted at the location specified in the certificate; and
- . the school only provide education at the level or levels specified in the certificate.

Section 14 repeals sections 24, 25 and 26 of the Principal Ordinance and inserts the following:

- . New section 24 provides that where the Minister receives a report under sections 22 or 23 of the Principal Ordinance he or she shall cause a copy of the report to be delivered to the applicant either personally or by post.
- . New section 25 provides for renewal of registration, so that the Minister, upon an application, shall appoint a panel to report on the relevant school and if the Minister is satisfied that the relevant school is maintained according to the conditions to which its registration is subject, he or she shall direct the Registrar to renew the registration for a period of not more than five years and the Registrar shall notify the applicant in writing of the period of renewal.
- . New section 26 provides that where an application is made for registration or renewal of registration before the expiration of the period for which provisional registration or registration remains in force, then that latter period is extended until the application is granted or refused.

Section 15 amends section 27 of the Principal Ordinance by providing that a provisionally registered school may also be inspected and will also insert a new subsection to provide that the Minister may make inquiries in relation to the conditions upon which certificates are issued, and may cancel registration if one of those conditions is not complied with.

Section 16 repeals section 30 of the Principal Ordinance and substitutes a new section to allow appeals to the Administrative Appeals Tribunal from decisions of the Minister made under Part III.

Section 16 also adds a new section 30A to provide that where the Minister has made a decision under Part III of the Principal Ordinance the decision must be notified in the Gazette and a newspaper circulating in the ACT, and:

- . to the applicant, where a certificate of provisional registration, registration or renewal of registration is sought; or
- . to the principal, where registration is being cancelled, or notice is being given to properly repair the school.

Section 17 amends section 32 of the Principal Ordinance by increasing the penalty for a breach of subsection (2) or (3) to \$500.

Section 18 introduces a new section 34 to the Principal Ordinance to provide a penalty of \$1,000 for knowingly making a statement that is false or misleading in an application for provisional registration, additional provisional registration, registration or renewal of registration.

Section 19 introduces transitional provisions to provide that the registration or provisional registration of a school affected by the introduction of the amending Ordinance will continue in force for the period it would have remained in force if the Principal Ordinance had not been amended by the amending Ordinance, and also that applications made under section 22 of the Principal Ordinance but not determined before the amending Ordinance commences, will be deemed to be made under section 22 as amended by the amending Ordinance.