

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

SCHOOLS AUTHORITY (AMENDMENT) ORDINANCE (NO. 2) 1988

ORDINANCE NO. 65 OF 1988

The Schools Authority Ordinance 1976 (the Principal Ordinance) provides for the establishment of the ACT Schools Authority (the Authority). It also provides for the appointment of the Chief Education Officer to constitute the Authority. The functions of the Authority are to establish and conduct schools and educational institutions in the Territory.

The Schools Authority (Amendment) (No. 2) Ordinance 1988 amends the Principal Ordinance to establish a Schools Authority Advisory Committee which is vested with statutory responsibilities so as to guarantee the community's role in the education system. The Ordinance also gives effect to undertakings made to the Senate Standing Committee on Regulations and Ordinances arising out of its consideration of the Schools Authority (Amendment) Ordinance 1987. The Committee was concerned that certain powers contained in various provisions of the Principal Ordinance should only be exercisable in writing.

Details of the Ordinance are set out in the Attachment.



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

Schools Authority (Amendment) Ordinance (No. 2) 1988

Section 1 cites the short title of the Ordinance as the Schools Authority (Amendment) Ordinance (No. 2) 1988.

Section 2 defines Principal Ordinance to mean the Schools Authority Ordinance 1976.

Section 3 amends section 4 of the Principal Ordinance by inserting a definition of "Chairperson" which means the Chairperson of the Committee, "Committee" which means the Schools Authority Advisory Committee and "member" which will mean a member of the Committee.

Section 4 amends section 6 of the Principal Ordinance by inserting subsection (3A) which provides that in the performance of its functions, the Authority shall have regard to any advice given by the Committee.

Section 5 inserts before section 8 of the Principal Ordinance in Part III a new heading indicating a new Division 1 entitled "The Australian Capital Territory Schools Authority".

Section 6 amends section 8 of the Principal Ordinance by inserting in subsection (1) "in writing" after the word "shall". This ensures that an appointment by the Minister of the Authority is in writing.

Section 7 amends section 11 of the Principal Ordinance by adding new subsection (2) which provides that a grant of leave of absence and the determination of its terms and conditions is in writing.

Section 8 amends section 14 of the Principal Ordinance by inserting in subsection (1) "in writing" after the word "may" to ensure that an appointment by the Minister of a person to act as the Authority is in writing.

Section 9 inserts after section 14 of the Principal Ordinance in Part III a Division 2 entitled "The Schools Authority Advisory Committee" and consisting of sections 15 to 22 inclusive. These sections establish the Schools Authority Advisory Committee (section 15); provide for its function and powers (section 16); its constitution (section 17); resignation of members (section 18); termination of appointment of members (section 19); acting appointments (section 20); meetings of the Committee (section 21) and the disclosure of pecuniary interests of members of the Committee (section 22).

Section 15 establishes the Schools Authority Advisory Committee.

Subsection 16(1) provides that the functions and powers of the Committee is to advise the Authority on any matter relating to the functions of the Authority and in particular in relation to:

- . the educational policies to be implemented in schools;
- . the provision of educational services at schools;
- . the welfare of students at schools and the management of schools;
- . the development of relationships between schools and the community and between schools and community groups; and
- . the planning and programming of educational and related services to be provided by the Authority and the financial policies of the Authority.

Subsection 16(2) provides that the advice given by the Committee shall be in writing.

Subsection 16(3) provides that the Committee may report to the Minister in writing on any matter relating to the functions of the Authority.

Proposed subsection 16(4) provides that the Committee has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

Section 17 provides for the constitution of the Committee. Subsection 17(2) provides that the Committee consists of:

- (a) a Chairperson;
- (b) 2 persons each of whom is a Chairman of a board;
- (c) a representative of the Canberra Pre-School Society Incorporated;
- (d) a representative of the Australian Capital Territory Council of Parents and Citizens Association Incorporated;
- (e) a representative of an organisation representing teaching staff; and
- (f) 1 other person.

Subsection 17(2) provides that the Chief Education Officer, a member of the Committee referred to in paragraphs (1)(b)-(f) or a member of staff of the Authority cannot be appointed as Chairperson of the Committee.

Subsection 17(3) provides for the appointment in writing by the Minister of the members of the Committee.

Section 17(4) provides that the period of appointment of a member of the Committee is to be for a period not exceeding 3 years and on the terms and conditions specified in the instrument of appointment.

Section 18 provides for the resignation of a member of the Committee in writing signed by the member and delivered to the Minister.

Section 19 deals with the termination of appointment of a member of the Committee. Subsection 19(1) empowers the Minister to terminate the appointment of a member for misbehaviour or physical or mental incapacity.

Subsection 19(2) provides for the mandatory termination of the appointment of a member if -

- . the member becomes bankrupt;
- . the member is absent, without advising the Minister or the Chairperson of the reason for his or her absence, from 3 consecutive meetings of the Committee;
- . the member is convicted in the Territory or in a State or another Territory of an indictable offence;
- . in the case of a member of the kind referred to in paragraphs 17(1)(b), (c), (d) or (e), the Minister has reasonable grounds for believing that the member has ceased to be a member of that kind; or
- . the member fails, without reasonable excuse to comply with section 22, dealing with disclosure of interests.

Subsection 20(1) provides that the Minister may appoint a person, other than the Chief Education Officer or a member of the staff of the Authority, to act in the office of Chairperson where there is a vacancy in the office of Chairperson or during any absences of the Chairperson from duty or from the Territory but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

Proposed subsection 20(2) saves the validity of anything done by or in relation to a person purporting to act in the office of Chairperson notwithstanding possible defects or irregularities in the appointment to act.

Section 21 provides for Committee meetings. Subsection 21(1) provides that there must be at least 8 meetings each year with no more than 3 months between each meeting.

Subsection 21(2) allows the Chairperson to convene a meeting at any time and imposes a duty on the Chairperson to convene a meeting on the written request by the Minister or at least 3 members.

Subsection 21(3) provides that the Chairperson is to preside at all meetings of the Committee at which he or she is present.

Subsection 21(4) provides that in the absence of the Chairperson from a meeting, the members may elect one of their number to preside at the meeting.

Subsection 21(5) provides that a quorum at a meeting of the Committee is constituted by 5 members.

Subsection 21(6) provides that a question arising at a meeting of the Committee is determined by a majority of votes of the members present and voting.

Subsection 21(7) provides that the person presiding at a meeting of the Committee has a deliberative vote and in the event of an equality of votes also has a casting vote.

Subsection 21(8) provides for the Committee to keep a record of its proceedings.

Section 22 deals with disclosure of interests of members of the Committee. Subsection 22(1) provides for the mandatory disclosure by a member of a direct or an indirect pecuniary interest in a matter being considered or about to be considered by the Committee.

Subsection 22(2) provides for disclosure under subsection (1) be recorded in the minutes of the Committee and that unless the Committee otherwise determines, the member concerned shall not be present during any deliberations of the Committee with respect to that matter or take part in any decision of the Committee with respect to that matter.

Subsection 22(3) provides that, while the Committee is determining whether such a member may take part in the decision making process of the relevant matter, that member shall not be present during any deliberation of the Committee for the purpose of making the determination or take part in the making by the Committee of the determination.

Section 10 amends section 35 of the Principal Ordinance the effect of which is that the Authority will not have the power to enter into a contract for the expenditure or receipt of an amount exceeding \$100,000 without the written approval of the Minister and unless the contract is in writing.

Section 11 repeals section 51 of the Principal Ordinance. The Authority's power to appoint a Committee pursuant to section 51 to furnish advice to it or to assist it in the performance of its functions is no longer necessary given the establishment of the Schools Authority Advisory Committee under section 15.