
Schools Authority (Amendment) Ordinance 1983

No. 63 of 1983

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 21 December 1983.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

SUSAN RYAN
Minister of State for Education and Youth Affairs

An Ordinance to amend the *Schools Authority Ordinance 1976*

Short title

1. This Ordinance may be cited as the *Schools Authority (Amendment) Ordinance 1983*.¹

Commencement

2. This Ordinance shall come into operation on 1 January 1984.

Principal Ordinance

3. In this Ordinance, "Principal Ordinance" means the *Schools Authority Ordinance 1976*.²

Interpretation

4. Section 4 of the Principal Ordinance is amended—

- (a) by inserting after the definition of "Authority" the following definition:
" 'board' means the board of a school;";
- (b) by inserting after the definition of "Chairman" the following definitions:
" 'community group' means an identifiable group, whether incorporated or unincorporated, of persons organized for a common purpose, or common purposes, of a public, welfare, social, recreational or similar character;

'community purpose' means a purpose of a public, welfare, social, recreational or similar character that is calculated to benefit the members, or advance the common purpose or purposes, of a community group;";

(c) by inserting after the definition of "House of Assembly" the following definition:

" 'non-government school' means a school in the Territory that is not conducted, or proposed to be conducted, by or on behalf of the Commonwealth, but does not include a school conducted, or proposed to be conducted, for the profit, direct or indirect, of an individual or individuals;"; and

(d) by adding at the end thereof the following definition:

" 'school' means—

(a) any school or college established and conducted in the Territory; and

(b) any school or other educational or related institution approved by the Minister,

pursuant to paragraph 6 (1) (a)."

Functions of Authority

5. Section 6 of the Principal Ordinance is amended by omitting paragraph (1) (a) and substituting the following paragraph:

"(a) to establish and conduct in the Territory, on behalf of the Commonwealth—

(i) pre-schools, primary schools, high schools and secondary colleges; and

(ii) such other schools and other educational or related institutions as the Minister may from time to time approve;";

Powers of Authority

6. Section 7 of the Principal Ordinance is amended—

(a) by omitting from paragraph (1) (g) "and" (last occurring); and

(b) by inserting after paragraph (1) (h) the following word and paragraph:

"; and (i) to enter into arrangements with a community group for the use by that group for a community purpose of land or buildings made available to the Authority by the Commonwealth."

7. After section 7 of the Principal Ordinance the following section is inserted in Part II:

Access to and use of Authority programs and services

"7A. (1) Subject to this section, the Authority may, by instrument in writing, with the approval of the Minister, grant permission to—

(a) non-government schools;

- (b) technical and further education institutions; and
- (c) eligible institutions and eligible agencies,

to have access to, and use of, programs, buildings, facilities and services conducted or provided by, or made available through, the Authority on behalf of the Commonwealth.

“(2) For the purposes of paragraph (1) (c), the Minister may by writing determine an institution or an agency to be an eligible institution or an eligible agency.

“(3) An instrument pursuant to sub-section (1) may grant permission for such period, and subject to such restrictions and conditions, as may be specified in the instrument.”.

Term of office

8. Section 11 of the Principal Ordinance is amended by adding at the end thereof the following sub-section:

“(2) A part-time member referred to in paragraph 10 (1) (e) who, but for this sub-section, would continue to hold office as a member after the date of the expiration of his term of office as a member of the House of Assembly pursuant to paragraph 4 (3) (b) of the *House of Assembly Ordinance 1936* shall cease to hold office as a member of the Authority upon the expiration of that date.”.

Termination of office

9. Section 15 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (2) “If a part-time member” and substituting “Where, before the expiration of his term of office in accordance with section 11, a part-time member”; and
- (b) by omitting from paragraph (2) (ab) “paragraph (1) (b), (1) (c), (1) (d) or (1) (e) of section 10” and substituting “paragraph 10 (1) (b), (c), (d) or (e)”.

Acting appointments

10. Section 18 of the Principal Ordinance is amended—

- (a) by omitting sub-section (1) and substituting the following sub-sections:

“(1) The Minister may, by instrument in writing, appoint a part-time member to act as Chairman—

- (a) during a vacancy in the office of Chairman; or
- (b) during any period, or during all periods, when the Chairman is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

“(1A) An appointment of a part-time member under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

“(1B) The Minister may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a part-time member acting as Chairman; and
- (b) terminate such an appointment at any time.

“(1C) Where a part-time member is acting as Chairman in accordance with paragraph (1) (b) and the office of Chairman becomes vacant while that part-time member is so acting, then, subject to sub-section (1A), that part-time member may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

“(1D) While a part-time member is acting as Chairman, he has and may exercise all the powers, and shall perform all the functions and duties, of the Chairman under this Ordinance or any other applicable law.”;

- (b) by inserting after sub-section (2) the following sub-section:

“(2A) Where a part-time member is appointed to act as Chairman pursuant to sub-section (1), the Minister may, by instrument in writing, appoint a person to act as a part-time member during the period, or any part of the period, when that first-mentioned member is acting as Chairman.”; and

- (c) by omitting sub-sections (5) and (6) and substituting the following sub-sections:

“(5) The appointment of a person under this section ceases to have effect if he resigns his appointment by writing signed by him and delivered to the Minister.

“(6) The validity of anything done by a person appointed under this section shall not be called in question on the ground that the occasion for his appointment had not arisen, that there was a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.”.

Appointment of Chief Education Officer

11. Section 19 of the Principal Ordinance is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) The Minister shall, before an appointment is made under sub-section (1), consult with the Authority in relation to the appointment.”.

12. Sections 29, 30, 31, 32, 33 and 34 of the Principal Ordinance are repealed and the following sections substituted:

Moneys of the Authority

“29. (1) There are payable to the Authority such moneys as are—

- (a) appropriated by the Parliament for the purposes of this Ordinance;
- (b) received for or in relation to the use by a community group of land or buildings made available to the Authority by the Commonwealth;
- (c) paid by a person to the Authority where acceptance of those moneys would be consistent with the purposes for which the moneys are paid and the Authority considers it appropriate that the moneys should be so accepted; and
- (d) received by the Authority, not being moneys referred to in sub-section (2) or (3), in the performance of its functions.

“(2) Moneys payable to the Authority shall include moneys provided to the Authority in respect of an educational or related program approved by the Minister for the purposes of this provision.

“(3) The Authority may, by instrument in writing, declare that specified moneys, or moneys included within a specified class of moneys, being moneys purported to be received by the board of a school, or received by a person representing the school, or in respect of an activity conducted by the school for the general purposes, or a particular purpose, of the school (whether before or after the commencement of the *Schools Authority (Amendment) Ordinance 1983*), shall be payable to the Authority and such moneys, or moneys included in such class of moneys, are payable to the Authority accordingly.

“(4) The Minister of State for Finance may give directions as to the amounts in which, and the times at which, moneys referred to in paragraph (1) (a) are to be paid to the Authority.

Assets of the Authority

“30. The Authority may, by instrument in writing, declare specified property—

- (a) purported to be purchased by, donated to or otherwise acquired by a board;
- (b) not being property referred to in paragraph (a), in the custody of a board; or
- (c) acquired by a person in respect of an activity conducted by a school for the general purposes, or a particular purpose, of the school,

whether before or after the commencement of the *Schools Authority (Amendment) Ordinance 1983*, to be an asset of the Authority, and upon such declaration that property shall be taken, for the purposes of this Ordinance, to be an asset of the Authority.

Application of moneys of Authority

“31. The moneys of the Authority shall be applied only—

- (a) in payment or discharge of the costs, expenses, charges, obligations or liabilities incurred or undertaken by the Authority in or in connection with the pursuance of its functions or the exercise of its powers;
- (b) in payment of any remuneration, fees and allowances payable under this Ordinance; and
- (c) in making any other payments that are required or permitted by this Ordinance to be made out of the moneys of the Authority.

Authority to prepare estimates

“32. (1) The Authority shall prepare estimates, in such form as the Minister approves, of its receipts and expenditure in respect of those moneys referred to in sub-section 29 (1) for each financial year and, if the Minister so directs, for any other period specified by the Minister and shall submit estimates so prepared to the Minister not later than such date as the Minister directs.

“(2) Moneys paid to the Authority under sub-section 29 (1) shall not be expended otherwise than in accordance with the estimates of expenditure approved by the Minister.

Investment of moneys

“33. (1) Moneys of the Authority that are not immediately required for the purposes of the Authority may be invested—

- (a) on fixed deposit with an approved bank;
- (b) in securities of the Commonwealth; or
- (c) in any other manner approved by the Treasurer.

“(2) In this section, ‘approved bank’ has the same meaning as in section 63J of the *Audit Act 1901*.”

Interpretation

13. Section 36 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) the definition of “board” and substituting the following definitions:

“‘full-time student’ means a student who is attending classes at a school during a total period of class time that is not less than 12 hours per week;

‘full-time teacher’ means a person appointed or engaged under Division 2 of Part III of the *Commonwealth Teaching Service Act 1972* for the performance of teaching duties within the meaning of that Act in a school otherwise than on a part-time or casual basis;

‘half-year’ means a period of 6 months ending on 30 June or 31 December;”

- (b) by inserting after the definition of "high school" in sub-section (1) the following definition:
- " 'member' means a member of the board of a school;";
- (c) by omitting from sub-section (1) the definition of "secondary college" and substituting the following definitions:
- " 'secondary college' means a school declared by the Authority to be a secondary college for the purposes of this Part;
- 'small school' means a school where less than 4 teachers are employed but does not include a school or other educational or related institution referred to in sub-paragraph 6 (1) (a) (ii);
- 'year' means the period of 12 months commencing on a 1 January.";
- (d) by inserting after sub-section (2) the following sub-section:
- "(2A) A reference in this Part to a school shall not be read as a reference to a pre-school referred to in sub-paragraph 6 (1) (a) (i)."; and
- (e) by omitting sub-section (3) and substituting the following sub-section:
- "(3) Subject to this section, 'prescribed period', in relation to the term of office of a member of a board (other than a principal), means the period commencing on 1 March in the year of election of the member or the date of his election, whichever is the later, and ending at the expiration of that month of February which falls not less than 12 months and not more than 24 months after the commencement of the period.".

14. Sections 40, 41 and 42 of the Principal Ordinance are repealed and the following sections substituted:

Constitution of school boards

- "40. (1) Subject to sub-section (2), the board of a school shall consist of—
- (a) the principal of that school;
 - (b) one member appointed by the Authority;
 - (c) 2 members elected by teachers employed at the school;
 - (d) 3 members elected by the Parents and Citizens Association of the school; and
 - (e) the member or members (if any) appointed under sub-section (6).

"(2) In the case of a high school or a secondary college the board shall include, in addition to the members specified in sub-section (1), 2 members, being full-time students at the school, elected by the students at the school.

"(3) A person is not eligible to hold office as a member referred to in paragraph (1) (c) unless he is employed as a full-time teacher at the school.

“(4) Subject to this Ordinance, a member referred to—

- (a) in paragraph (1) (b) holds office during the prescribed period and is eligible for reappointment; and
- (b) in paragraph (1) (c) or (d) or sub-section (2) holds office during the prescribed period and is eligible for re-election.

“(5) Where a member referred to in paragraph (1) (c) or (d) or sub-section (2) ceases to hold office before the expiration of his term of office, the Authority may appoint a person—

- (a) in the case of a member referred to in paragraph (1) (c)—elected by the teachers employed at that school from among full-time teachers at the school;
 - (b) in the case of a member referred to in paragraph (1) (d)—nominated by the Parents and Citizens Association of the school; or
 - (c) in the case of a member referred to in sub-section (2)—elected by the students at that school from among full-time students at the school,
- to hold office as a member of the board for the balance of that term of office.

“(6) Subject to sub-section (8), the board of a school may, by instrument in writing signed by the Chairman of that board, appoint a person or persons, for such period (being a period not exceeding 12 months) as is specified in the instrument of appointment, to be a member or members of the board.

“(7) A person appointed under sub-section (6) is eligible for reappointment.

“(8) The board of a school is not authorized to appoint a person under sub-section (6) so as to cause—

- (a) in the case of a primary school—3 or more persons; or
 - (b) in the case of a high school or secondary college—4 or more persons,
- to hold office at the same time by virtue of appointments under that sub-section.

“(9) A member of a board appointed under sub-section (6) is entitled to attend meetings of the board but is not eligible to vote.

“(10) In this section, ‘school’ does not include a small school, or a school or educational or related institution referred to in sub-paragraph 6 (1) (a) (ii).

Constitution of boards of small schools

“41. (1) The board of a small school shall consist of—

- (a) the principal of that school;
- (b) one member appointed by the Authority;
- (c) one member who is a teacher employed at the school;
- (d) 2 members elected by the Parents and Citizens Association of the school; and
- (e) the member (if any) appointed under sub-section (6).

“(2) A member referred to in paragraph (1) (c) shall be—

- (a) appointed by the Authority in accordance with a nomination in writing lodged with the Authority and signed by—
 - (i) the teacher proposed in the nomination to become a member; and
 - (ii) all other teachers employed at the school; or
- (b) where no such nomination is lodged before the expiration of the specified date—appointed by the Authority.

“(3) For the purposes of sub-section (2), the Authority shall, not later than 28 days before the specified date, furnish each teacher employed at the school with a notice requesting that a nomination be made, and setting out the specified date.

“(4) Subject to this Ordinance, a member referred to in—

- (a) paragraph (1) (b) holds office during the prescribed period, and is eligible for reappointment;
- (b) paragraph (1) (c) holds office during the prescribed period, and is eligible for reappointment; or
- (c) paragraph (1) (d) holds office during the prescribed period, and is eligible for re-election.

“(5) Where a member referred to in paragraph (1) (c) or (d) ceases to hold office before the expiration of his term of office, the Authority may—

- (a) in the case of a member referred to in paragraph (1) (c)—appoint, in accordance with the procedures set out in sub-sections (2) and (3), a teacher employed at the school; or
- (b) in the case of a member referred to in paragraph (1) (d)—appoint a person nominated by the Parents and Citizens Association of the school,

to hold office as a member of the board for the balance of that term of office.

“(6) The board of a small school may, by instrument in writing signed by the Chairman of that board, appoint a person, for such period (being a period not exceeding 12 months) as is specified in the instrument of appointment, to be a member of the board.

“(7) A person appointed under sub-section (6) is eligible for reappointment.

“(8) A member of a board appointed under sub-section (6) is entitled to attend meetings of the board but is not eligible to vote.

“(9) In this section, ‘specified date’ means a date specified by the Authority for lodgment with the Authority, by the teachers employed at a small school, of a nomination referred to in sub-section (2).

Constitution of boards in special cases

"42. (1) The Authority may determine, by instrument in writing, with the approval in writing of the Minister, the constitution of the board of a school or other educational or related institution referred to in sub-paragraph 6 (1) (a) (ii) and may appoint a person to be a member of that board in accordance with that determination.

"(2) In considering whether to grant an approval under sub-section (1), the Minister shall have regard to—

- (a) the advantages of conformity, where appropriate, to the constitution of a board referred to in section 40;
- (b) the need for the principal to be a member of the board;
- (c) the need for the Authority to be represented on the board;
- (d) whether consultations relating to the constitution of the board have been held with groups, as appropriate, of teachers, parents and citizens and students, employed at or associated with the school or other institution;
- (e) any representations made by such groups in relation to the constitution of the board; and
- (f) the administrative needs and educational or related objectives and any special characteristics of the school or other institution.

"(3) A person who is appointed to be a member of a board under sub-section (1) shall hold office for such period as is specified by the Authority in the instrument of appointment.

"(4) In this section, 'principal' means the principal of a school or other institution referred to in sub-section (1) and includes a person having responsibility for the conduct of the school or other institution."

Meetings

15. Section 46 of the Principal Ordinance is amended by omitting sub-section (8) and substituting the following sub-section:

"(8) A quorum at a meeting of a board is constituted—

- (a) in the case of the board of a primary school—by not less than 4 members of whom—
 - (i) one at least is a member elected under paragraph 40 (1) (c) or appointed by the Authority under paragraph 40 (5) (a); and
 - (ii) one at least is a member elected under paragraph 40 (1) (d) or appointed by the Authority under paragraph 40 (5) (b);
- (b) in the case of the board of a high school or secondary college—by not less than 5 members of whom—
 - (i) one at least is a member elected under paragraph 40 (1) (c) or appointed by the Authority under paragraph 40 (5) (a); and
 - (ii) one at least is a member elected under paragraph 40 (1) (d) or appointed by the Authority under paragraph 40 (5) (b);

- (c) in the case of the board of a small school—by not less than 3 members, of whom—
 - (i) one at least is a member referred to in paragraph 41 (1) (c) or appointed by the Authority under paragraph 41 (5) (a); and
 - (ii) one at least is a member elected under paragraph 41 (1) (d) or appointed by the Authority under paragraph 41 (5) (b); and
- (d) in the case of a board constituted under section 42 in respect of a school or other educational or related institution referred to in sub-paragraph 6 (1) (a) (ii)—by a number of members that is not less than one-half of the total number of members, of which number—
 - (i) where any member is appointed to represent teachers employed at that school or other institution—one is such a member;
 - (ii) where any member is appointed to represent parents and citizens associated with that school or other institution—one is such a member; and
 - (iii) where any member is appointed in respect of special objectives or characteristics of that school or other institution—one is such a member.”

16. Section 48 of the Principal Ordinance is repealed and the following sections are substituted:

Board of school to prepare budget

“48. (1) A board shall cause to be prepared for each year a budget, in such form as the Authority approves, in relation to moneys to be received and expended by that board on behalf of the Authority for that year and, if the Authority so directs, for any other period specified by the Authority, and the board shall approve a budget so prepared on a date not later than such date as the Authority specifies.

“(2) Where a budget in relation to moneys is approved pursuant to sub-section (1), those moneys shall not be expended otherwise than in accordance with that budget.

Application of moneys by board

“48A. The board of a school shall apply moneys of the Authority only in payment or discharge of the costs, expenses, charges, obligations or liabilities incurred or undertaken for the purposes of the Authority in or in connection with the performance of its functions or the exercise of its powers in relation to that school.

Proper accounts to be kept

“48B. (1) A board shall cause to be kept proper accounts and records of the transactions and affairs of the board and shall do all things necessary to ensure that all payments are correctly made and properly authorized and that adequate control is maintained over assets of the Authority in the custody of the board.

“(2) Accounts and records referred to in sub-section (1) shall be kept in such form as the Chief Education Officer, or a person authorized by him in writing, may from time to time prescribe.

Board to prepare financial statement and report

“48C. (1) A board shall, as soon as practicable after the end of each half-year, but not later than such date as the Authority may direct, cause to be prepared and furnished to the Authority a financial statement, in such form as the Authority approves, setting out details of the receipt and expenditure of all moneys of the Authority received, held or expended by or under the authority of the board during that half-year, together with such other particulars as the Authority may require.

“(2) A board shall, as soon as practicable after the end of each year, but not later than such date as the Authority may direct, cause to be prepared an annual report on the operations of the board during that year.

“(3) A report prepared in accordance with sub-section (2) shall include a financial statement referred to in sub-section (1) for each of the 2 half-years that make up the year to which the report relates.

Copies of budget and annual report to be provided

“48D. (1) The board of a school shall, not later than 14 days after the approval of a budget in accordance with sub-section 48 (1), provide copies of that budget—

- (a) in the case of a school referred to in sub-paragraph 6 (1) (a) (i), to—
 - (i) the parents of students at the school;
 - (ii) the teachers employed at the school; and
 - (iii) in the case of a high school or secondary college -- the students at the school or college; and
- (b) in the case of a school or other educational or related institution referred to in sub-paragraph 6 (1) (a) (ii), to—
 - (i) any parents of students at the school or other institution;
 - (ii) any teachers employed at the school or other institution; and
 - (iii) such other persons who are associated with the school or other institution, or who have an interest in its special objectives or characteristics, as the board may determine.

“(2) The board of a school shall, not later than 14 days after the preparation of an annual report referred to in sub-section 48C (2), provide copies of that report to the Authority and—

- (a) in the case of a school referred to in sub-paragraph 6 (1) (a) (i), to—
 - (i) the parents of students at the school;
 - (ii) the teachers employed at the school; and
 - (iii) in the case of a high school or secondary college— the students at the school or college; and

- (b) in the case of a school or other educational or related institution referred to in sub-paragraph 6 (1) (a) (ii), to—
- (i) any parents of students at the school or other institution;
 - (ii) any teachers employed at the school or other institution; and
 - (iii) such other persons who are associated with the school or other institution, or who have an interest in its special objectives or characteristics, as the board may determine.”.

Repeal of section 53

17. Section 53 of the Principal Ordinance is repealed.

Savings

18. (1) The provisions of sections 11 and 15 of the Principal Ordinance continue to apply to and in relation to a member of the Authority referred to in paragraph 10 (1) (e) of that Ordinance who holds office as a member of the Authority at the commencement of this Ordinance as if this Ordinance had not been made.

(2) A board of a school established under section 37 of the Principal Ordinance shall, until the expiration of the last day of February 1984, continue to perform its functions under that Ordinance, and any act or thing done pursuant to that Ordinance by that board before the expiration of that day shall be as valid and effectual for all purposes, as if this Ordinance had not been made.

(3) The provisions of Part VII of the Principal Ordinance continue to apply to and in relation to a person who holds office as a member of the board of a school under that Ordinance immediately before the commencement of this Ordinance until the expiration of the last day of February 1984.

Transitional

19. (1) Where moneys that are payable to the Authority under section 29 (3) of the Principal Ordinance as amended by this Ordinance have, before the commencement of this Ordinance, been invested by a person other than the Authority in a manner specified in section 33 of the Principal Ordinance as amended by this Ordinance, the Authority may, not later than 3 months after the commencement of this Ordinance, by instrument in writing declare those moneys to have been invested for the purposes of that section, and upon such declaration those moneys shall be deemed to have been invested by the Authority under that section.

(2) Subject to sub-section (3), where a board is first constituted under section 40 or 41 of the Principal Ordinance as amended by this Ordinance, half the number of members appointed or elected to that board shall hold office in accordance with the Principal Ordinance as amended by this Ordinance, and each other member shall hold office on and from 1 March 1984 or the date of his appointment or election, whichever is the later, until the expiration of the last day of February 1985.

(3) A reference in sub-section (2) to a member of a board does not include a reference to a principal or a member referred to in sub-section 40 (6) or 41 (6) of the Principal Ordinance as amended by this Ordinance.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 30 December 1983.
2. No. 59, 1976 as amended by No. 46, 1978; No. 11, 1979.