



Australian Capital Territory

# Education Amendment Act 2024

A2024-39

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Australian Capital Territory

# Education Amendment Act 2024

**A2024-39**

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

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Education Amendment Act 2024*.

### 2 Commencement

This Act commences on 1 January 2025.

*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*.

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## Part 2 Education Act 2004

### 4 General principles of Act Section 7 (2) (c) (iii)

*substitute*

- (iii) encourage parents to take part in the education of their children, and recognise their right to—
  - (A) enrol their child in a government school in which the child is eligible to be enrolled; or
  - (B) apply to enrol their child in a registered non-government school; or
  - (C) register their child for home education; and

### 5 Guidelines—certain director-general functions Section 9D (1), 2nd dot point

*substitute*

- section 10AC (3) (Student movement register—parental notice);

### 6 New section 10AAA

*after section 10, insert*

#### 10AAA Child of compulsory education age—when enrolment starts

- (1) This section applies if an education provider accepts an application for the enrolment of a child who is of compulsory education age for the purpose of the provider's education course.
- (2) The child's enrolment at the education provider starts on—
  - (a) the day the education course starts for the child; or

- (b) if the education course starts for the child before the application for enrolment is made—the day agreed between the child’s parents and the education provider for the child to start the course.

## **7 Child of compulsory education age—school attendance requirement**

### **Section 10A (2) and (3) and notes**

*substitute*

- (2) The child’s parents must ensure that the child—
- (a) attends in the way, and during the times, the school requires the child to attend to complete the education course for which the child is enrolled; and
- (b) attends every activity of the school (including attendance at an approved educational course) that the school requires the child to attend.

**Examples—activity of the school**

school concert, sporting day or swimming carnival

- (3) This section does not apply if the child’s parents have an excuse for not complying with this section that the principal of the school is satisfied is a reasonable excuse.
- (4) In this section:

***attendance***, in relation to distance education, includes complying with the education provider’s requirements for attendance.

**Examples**

- logging in via an online portal at required times
- attending practical examinations in person

***reasonable excuse*** means a circumstance prescribed by regulation.



**8 Student movement register  
New section 10AA (1) (c)**

*insert*

- (c) students participating in distance education in accordance with this Act.

**9 New section 10AA (2) (c)**

*insert*

- (c) a student starts or stops distance education.

**10 New section 10AA (3) (c) and (d)**

*insert*

- (c) a student starts or stops distance education;
- (d) information about a student movement event is given to the director-general under section 10AC (2) (Student movement register—parental notice).

**11 New section 10AC**

*in division 2.2.1, insert*

**10AC Student movement register—parental notice**

- (1) This section applies if—
  - (a) a child is of compulsory education age; and
  - (b) the child is enrolled at an education provider or registered for home education; and
  - (c) the child’s enrolment or registration ends.
- (2) The child’s parents must, within 28 days after the day the child’s enrolment or registration ends, give the information prescribed by regulation to the director-general in writing.

- (3) This section does not apply if the child's parents have an excuse for not complying with this section that the director-general is satisfied is a reasonable excuse.

*Note* The director-general must comply with any guidelines about the exercise of the director-general's functions under s (3) (see s 9D).

## 12 Division 2.2.3 heading

*substitute*

## Division 2.2.3 Information notices

### 13 Section 11C

*substitute*

#### 11C Giving information notice

- (1) The director-general may give a notice to a child's parents (an *information notice*) if the director-general believes on reasonable grounds that the parents have contravened, or are contravening, any of the following sections:
- (a) section 10 (Child of compulsory education age—enrolment and registration requirement);
  - (b) section 10A (Child of compulsory education age—school attendance requirement);
  - (c) section 10D (Child of compulsory education age—participation requirement);
  - (d) section 14D (Approval statement—compliance requirement).
- Note* For how documents may be given, see the [Legislation Act](#), pt 19.5.
- (2) However, the director-general may only give an information notice in relation to a contravention of section 10 if the child lives in the ACT.

**14 Sections 11C, 11D, 11E and 11F**

*renumber as sections 16AA, 16AB, 16AC and 16AD*

**15 Division 2.2.3 (as amended)**

*relocate as part 2.4A*

**16 Exemption certificate—issue  
Section 12A (2) (c) and (d)**

*omit*

**17 Exemption certificate—form  
Section 12B (d)**

*substitute*

(d) for an exemption from the full-time participation requirement—state the details of the exemption; and

**18 Approval statement—issue  
Section 14A (2) (a)**

*omit*

health

*substitute*

mental or physical health and wellbeing

**19 Section 14A (2) (c) and (d)**

*omit*

**20 Giving compliance notice  
New section 16B (ba)**

*insert*

(ba) section 10AC (Student movement register—parental notice); or

**21 New section 16B (2)**

*after the note, insert*

- (2) However, the director-general may only give a compliance notice in relation to a contravention of section 10 if the child lives in the ACT.

**22 Operation of government schools  
Section 21 (4)**

*omit*

children in the government school in their neighbourhood

*substitute*

children in their local government school

**23 New section 21 (7) and (8)**

*insert*

- (7) The director-general may establish procedures for the operation of school-related institutions.

- (8) In this section:

***local government school***, for a child, means—

- (a) the government school whose priority enrolment area includes the child's place of residence; or
- (b) if the child has more than 1 place of residence—each government school whose priority enrolment area includes a place of residence for the child.

**24 New section 21A**

*insert*

**21A Priority enrolment areas**

- (1) The director-general may determine the area from which a government school must accept the enrolment of any child living in the area (a *priority enrolment area*).
- (2) The director-general must make the determination available to the public.

**Example—available to the public**

publish the determination on a government website

- (3) In this section:

*government school* does not include a preschool program delivered at the school.

**25 Approved educational courses for students at government schools  
New section 31 (3) (d)**

*insert*

- (d) each person carrying out a regulated activity for the provider of the course complies with the requirements of the *Working with Vulnerable People (Background Checking) Act 2011*.

**26 Keeping records of enrolment and attendances for government schools  
Section 33 (1) (b)**

*substitute*

- (b) a record of the student's compliance with required school or course attendance (including any activity of the school or course).

**27 Procedures to encourage school attendance at government schools  
Section 35 (2) and (3)**

*substitute*

- (2) The procedures must—
- (a) state that school attendance is compulsory; and
  - (b) state the benefits of a student’s regular school attendance; and
  - (c) include steps that may be taken to support a student’s attendance.

**Example—par (c)**

referring a student to a support service

**28 Definitions for pt 3.4  
Section 37, definition of *student***

*omit*

**29 In-principle approval—application  
New section 86 (2) (a) (vi) and (vii)**

*insert*

- (vi) whether the proprietor proposes to provide distance education from the campus;
- (vii) if the proprietor proposes to provide distance education—the day distance education is to start being provided from the campus; and

**30 In-principle approval—decision on application  
New section 88 (3) (ea) and (eb)**

*insert*

- (ea) whether distance education will be provided from the campus;

- (eb) if distance education will be provided from the campus—the day distance education is to start being provided from the campus;

**31 Registration—referral to registration standards advisory board**  
**New section 91 (2) (c)**

*insert*

- (c) if the application includes a proposal to provide distance education from a campus—assess whether the proposed school has a distance education policy.

**32 Registration—conditions**  
**New section 93 (ba)**

*insert*

- (ba) if the school provides distance education—the school must have a distance education policy;

**33 Registration—register and registration certificate**  
**New section 95 (2) (c) (iv)**

*insert*

- (iv) whether distance education is to be provided from the campus; and

**34 Proprietor must tell registrar about notifiable changes**  
**New section 96 (1) (ca)**

*insert*

- (ca) stop providing distance education from a registered campus;

**35 New section 96 (1) (g)**

*insert*

- (g) restart providing distance education from a registered campus within 2 years after stopping providing distance education from the campus.

**36 Proprietor must apply for registrable changes  
New section 97 (1) (ca)**

*insert*

- (ca) start providing distance education from a registered campus;

**37 Registration amendment—application  
New section 98 (1) (d) (iiia)**

*insert*

- (iiia) whether the proprietor proposes to provide distance education from the new campus; and

**38 New section 98 (1) (fa)**

*insert*

- (fa) for an amendment to provide distance education from an already registered campus—state the registered campus from where the distance education is to be provided; and

**39 Registration amendment—referral to registration  
standards advisory board  
New section 100 (2) (c)**

*insert*

- (c) if the application includes a proposal to provide distance education from a campus—assess whether the school has a distance education policy.



**40 Registration amendment—decision on application  
New section 101 (1) (aa)**

*insert*

- (aa) if the application includes a proposal to provide distance education from a campus—the school has a distance education policy; and

**41 New section 104A**

*insert*

**104A Provide distance education without being registered school**

- (1) A person commits an offence if—
- (a) the person provides distance education to a child in the ACT; and
  - (b) does not provide the distance education from the campus of a school registered to provide distance education.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

**42 Offence—operate registered school other than within scope of registration  
New section 105 (3A)**

*insert*

- (3A) The proprietor of a registered school must not provide distance education from a campus unless the school is registered to provide distance education from the campus.

Maximum penalty: 10 penalty units.

**43 Register of registered non-government schools  
New section 106 (2) (d) (iv)**

*insert*

- (iv) whether distance education is provided from the campus;

**44 Approved educational courses—registered schools  
New section 125D (3) (d)**

*insert*

- (d) each person carrying out a regulated activity for the provider of the course complies with the requirements of the [Working with Vulnerable People \(Background Checking\) Act 2011](#).

**45 Meaning of *register of enrolments and attendances*—  
pt 4.5  
Section 125E, definition of *register of enrolments and  
attendances*, paragraph (a) (ii)**

*substitute*

- (ii) the student's compliance with required school attendance (including any activity of the school); and

**46 Section 125E, definition of *register of enrolments and  
attendances*, paragraph (b) (ii)**

*substitute*

- (ii) a record of the attendance of each student at the course on each day the student is required to attend.

**47 Nonattendance at registered schools  
Section 125J**

*omit*

**48 New chapter 4B***insert***Chapter 4B Distance education****127BA Meaning of *distance education***

In this Act:

*distance education* means an education course for a child that requires—

- (a) remote participation by the child for most of the education course; and
- (b) participation by the child at a level that is full-time under the requirements for the course.

**127BB Provision of distance education**

- (1) A school may only provide distance education if—
  - (a) for a registered school—the school is registered to provide distance education under part 4.3 (Non-government schools—registration); or
  - (b) in any other case—the director-general has determined under section 127BD that the school is eligible to provide distance education.

*Note* Under s 127BD, the director-general may determine that a stated school may provide distance education.

- (2) The registrar may determine a fee for the enrolment of students in registered schools who do not live in the ACT.
- (3) Before making a determination under subsection (2), the registrar must consult the registration standards advisory board.
- (4) A determination is a disallowable instrument.

**127BC Distance education policy**

A school that provides distance education must have written policies and procedures about the following (a *distance education policy*):

- (a) the responsibilities of parents in relation to supervision of their children undertaking distance education;
- (b) the attendance requirements of students undertaking distance education;
- (c) the curriculum requirements for an education course provided by distance education;
- (d) delivery of the education course, including how practical components are to be completed;
- (e) support that will be provided for personal and social development of students who undertake distance education, including students with diverse needs;
- (f) anything else prescribed by regulation.

**127BD Distance education determination**

- (1) The director-general may determine whether—
  - (a) a government school may provide distance education; or
  - (b) a school in another State may provide distance education for students enrolled in a government school.

*Note* *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

- (2) A determination is a notifiable instrument.

**127BE Eligibility for distance education**

A child living in the ACT may participate in distance education only if the child—

- (a) is enrolled at a government school or registered non-government school that provides distance education under this Act; and

- (b) meets any criteria—
- (i) required by the school; or
  - (ii) prescribed by regulation.

**49 Regulation-making power  
Section 155 (3)**

*omit*

incorporate an

*substitute*

incorporate a law or

**50 New chapter 11**

*insert*

## Chapter 11 Transitional—Education Amendment Act 2024

**314 Definitions—ch 11**

In this chapter:

*disapplication period* means the period beginning on 1 January 2025 and ending on 1 January 2027.

*distance education provisions* means the following provisions:

- (a) section 104A (Provide distance education without being registered school);
- (b) sections 127BB to 127BD.

*external school* means a school outside the ACT.

**315 Distance education provided by school outside ACT**

- (1) This section applies if—
  - (a) before 1 April 2024—
    - (i) a child living in the ACT is enrolled in an external school; and
    - (ii) the child participates in distance education provided by the external school; and
  - (b) the child has not ceased participating in the distance education provided by the external school over the period beginning on 1 April 2024 and ending on 1 January 2025, other than for a period that is not a school day or a period for which the child's parents have an excuse that the director-general is satisfied is a reasonable excuse; and
  - (c) during the disapplication period—
    - (i) the child continues to participate in the distance education provided by the external school; and
    - (ii) the external school is not—
      - (A) registered to provide distance education under this Act; or
      - (B) the subject of a determination under section 127BD.
- (2) The distance education provisions do not apply in relation to the external school during the disapplication period, for as long as the child participates in the distance education provided by the school.
- (3) Section 127BE (Eligibility for distance education) does not apply in relation to the child for as long as the child participates in the distance education provided by the external school during the disapplication period.

**316 Transitional regulations**

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Education Amendment Act 2024*.
- (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 under this chapter.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

*Note* A transitional provision under s (1) continues to have effect after its repeal, however, a modification under s (2) has no ongoing effect after its repeal (see [Legislation Act](#), s 88).

**317 Expiry—ch 11**

This chapter expires on 1 January 2027.

**51 Reviewable decisions  
Schedule 1, item 12, column 4**

*before*

parent

*insert*

student or

**52 Dictionary, new definitions**

*insert*

*distance education*—see section 127BA.

*distance education policy*—see section 127BC.

**53 Dictionary, definition of *information notice***

*substitute*

*information notice*—see section 11C (1).

**54 Dictionary, new definitions**

*insert*

*priority enrolment area*, for a government school—see section 21A (1).

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

**Examples—regulated activities**

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

**55 Dictionary, definition of *student***

*substitute*

*student* means a person enrolled at an education provider for the purpose of the provider's education course.



## Part 3 Education Regulation 2005

### 56 New section 2AAA

*before section 2AA, insert*

#### **2AAA Reasonable excuses—Act, s 10A (4), def *reasonable excuse***

The following circumstances are prescribed:

- (a) illness or medical issues, including physical or psychological;
- (b) recovery from a circumstance mentioned in paragraph (a);
- (c) attending a medical appointment (including an appointment with a health practitioner in relation to the student's mental health) where an out of hours appointment is not possible or appropriate;
- (d) accessing support or assistance in relation to domestic or family violence;
- (e) bereavement or attending the funeral of a relative or friend of the student;
- (f) religious or cultural observation;
- (g) family holidays that do not adversely affect the student's ability to meet the requirements of their educational course;
- (h) attending a legal proceeding or meeting associated with a proceeding;
- (i) participation in any of the following events (whether or not directly arranged by the school), if approved by the principal:
  - (i) debates;
  - (ii) sporting events;

- (iii) musical or theatrical productions;
- (iv) academic events;
- (j) any other circumstance that the principal is satisfied is reasonable to excuse a child's attendance at the child's school or an activity of the school.

**57 Student movement register—Act, s 10AA  
New section 2AA (2A)**

*insert*

- (2A) The following information is prescribed for the [Act](#), section 10AA (2) (c):
- (a) the name of the school;
  - (b) the name of the student;
  - (c) if the student has started distance education—
    - (i) the day the student started; and
    - (ii) the campus providing the distance education;
  - (d) if the student has stopped distance education—
    - (i) the day the student stopped; and
    - (ii) the campus that the student will be attending in person;
  - (e) the names and contact details of the student's parents.

**58 New section 2AA (5)**

*insert*

- (5) The following information is prescribed for the [Act](#), section 10AA (3) (c):
- (a) the name of the school;
  - (b) the name of the student;

- (c) if the student has started distance education—
  - (i) the day the student started; and
  - (ii) the campus providing the distance education;
- (d) if the student has stopped distance education—
  - (i) the day the student stopped; and
  - (ii) the campus that the student will be attending in person;
- (e) the names and contact details of the student’s parents.

**59 New section 2AB**

*in part 1A, insert*

**2AB Student movement information—Act, s 10AC (2)**

The following information is prescribed:

- (a) the name of the child;
- (b) the names and contact details of the child’s parents;
- (c) the following information about the child’s enrolment or registration ending:
  - (i) the date the child’s enrolment or registration ended;
  - (ii) if the child was previously enrolled at an education provider—the name of the education provider;
  - (iii) if the child was previously registered for home education—
    - (A) the State where the child was registered for home education; and
    - (B) the reason the registration ended;

- (d) the following information about the child's subsequent enrolment or registration for home education:
- (i) for a child subsequently registered for home education—
    - (A) the date the child was registered for home education; and
    - (B) the State where the child is registered for home education;
  - (ii) for a child subsequently enrolled at an education provider—
    - (A) the name of the education provider; and
    - (B) the State where the child is registered for home education.

*Note* *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

**60 Registration application—Act, s 89 (2) (e)  
New section 6A (f)**

*insert*

- (f) if the applicant proposes that the school will provide distance education—evidence of the school's distance education policy.

**61 Notifiable changes notice—Act, s 96 (4) (d)  
New section 6B (ba)**

*insert*

- (ba) for a change to stop providing distance education at a registered campus—the campus where distance education is to be stopped;

**62 New section 6B (ea)***insert*

- (ea) for a change to restart providing distance education at a registered campus—the campus where distance education is to be provided;

**63 Registration amendment application—Act, s 98 (1) (h)  
New section 6C (ea) and (eb)***insert*

- (ea) for an amendment to start providing distance education at a registered campus—information about the school’s distance education policy;
- (eb) for an amendment to provide new residential boarding services—information about how the school will comply with registration standard 2.25 (Residential boarding services);

**64 Encouraging attendance  
Schedule 2, standard 2.16 (2)***substitute*

- (2) The procedures must—
  - (a) state that school attendance is compulsory; and
  - (b) state the benefits of a student’s regular school attendance; and
  - (c) include steps that may be taken to support a student’s attendance.

**Example—par (c)**

referring a student to a support service

**65 Compliance with Working with Vulnerable People  
(Background Checking) Act 2011  
Schedule 2, standard 2.22 (2)**

*omit*

**66 Dictionary, note 3**

*insert*

- distance education (see s 127BA)
- distance education policy (see s 127BC)
- regulated activity

---

## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 9 April 2024.

**2 Notification**

Notified under the [Legislation Act](#) on 12 September 2024.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Education Amendment Bill 2024, which was passed by the Legislative Assembly on 28 August 2024.

Clerk of the Legislative Assembly

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