

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

EDUCATION BILL 2003

EXPLANATORY STATEMENT

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EDUCATION BILL 2003

EXPLANATORY STATEMENT

OUTLINE

The purpose of the new legislation is to consolidate, update and replace existing legislation for the education of children in the ACT.

Background

The Government issued an exposure draft of the Education Bill in 2002 inviting comment on the legislation. The Bill has been substantially changed to incorporate the many comments received in response to the Exposure Draft and following the relevant recommendations of the Connor's Inquiry into Education Funding in the ACT.

Improvements and clarifications of the original Bill cover school accountability and information requirements for all schools, new principles that recognise the individual needs of students at risk and new principles and provisional registration requirements for home education. The conditions for the registration of non government schools have been clarified and procedures for new non government schools included.

Aims and purpose of the legislation

The Education Act 2003 provides a foundation for the provision of high quality education of children at school or at home in the ACT. It incorporates values and principles that are founded on every child's right to a high quality education and recognise children's individual education needs. It recognises the obligations of parents and government to implement those principles and the right of parents to choose a suitable educational environment for their child.

The legislation is designed to be enduring and allow for change within a practical framework for the governance and management of government schools and regulation of non government schools and home education.

It provides a legislative foundation for the reporting and accountability obligations of all involved in the education of children.

The proposed legislation replaces all existing law relating to the education of children at school and at home in the ACT.

DETAILS

Detailed explanation of each section of the Bill follows.

CHAPTER 1 GENERAL

Part 1.1 Preliminary

Section 1 Name of Act

Names the Act

Section 2 Commencement

The Minister is to issue a notice to fix the date on which the legislation takes effect.

The Legislation Act 2000 (Section 79) ensures that all provisions must commence no later than 6 months after the notification day.

Section 3 Dictionary

Refers to the Dictionary at the end of the Act containing defined terms used in the Act.

Section 4 Notes

The notes provided in the legislation are not part of the law and are intended to assist readers with additional information or explanation.

Section 5 Offences against Act - application of Criminal Code etc

The Criminal Code (with regard to general principles, the definition of criminal responsibility and terms used for offences to which the Code applies) and the Legislation Act with regard to penalty units, apply to this Act.

Section 6 Meaning of *parent* and *carer*

A standard definition of parent and carer, derived from the *Children and Young People Act 1999*, is used in order to clearly assign responsibility for a child (in respect of obligations under this Act) to the people who have legal responsibility for the child's care, welfare and upbringing.

For example, a person having the legal responsibility for a child may be a natural parent, a foster parent, or any one assigned the responsibility by a court. It does not include the person responsible for the care of a child in a child care centre.

(1) In this Act a **parent** includes a carer.

(2) In this Act a **parent** is a person having parental responsibility for the child under the *Children and Young People Act 1999* (see Chapter 2 Part 3).

(3) In this Act, a **carer** is a person who is a carer under the *Children and Young People Act 1999*, section 5.

Part 1.2 General principles and objects

Section 7 General principles of Act

States the principles on which school education is based covering the right of children to receive a high quality education. Without limiting its meaning and scope, a high quality education is based on the principles subsequently listed in the section.

The first principle states that education provides a foundation for a democratic society.

The section lists the other general principles in terms of what school education should do. These are:

- aim to develop every child's potential and maximise their educational achievements;
- promote students' enthusiasm for lifelong learning and their optimism for the future;
- encourage parents to take part in the education of their children, and recognise their right to choose a suitable educational environment;
- recognise the social, religious, physical, intellectual and emotional needs of all students;
- aim over time to improve learning outcomes so that student outcomes are free from disadvantage because of economic, social, cultural or other causes;
- encourage all children to complete their senior secondary education;
- provide access to a broad education; and
- recognise the needs of Indigenous students.

Further principles are that:

- innovation, diversity and opportunity within and among schools should be encouraged;
- effective quality assurance mechanisms should be applied to school education;
- government funding should be directed to children through their schools or school system;
- the partnership between the home, community and educational providers is recognised; and,

- information should be given to school communities about the operation of their school.

Sub section (3) specifies that each person involved in the administration of this legislation or in the education for children of school age in the ACT, is to apply the principle that school education recognises the individual needs of children with disabilities.

Appropriate provision should be made for those needs, unless it would impose unjustifiable hardship on the provider of the school education.

Sub section (4) prohibits the use of corporal punishment in ACT schools.

Section 8 Main objects of Act

The objects of the Act are to:

- state parent and government responsibilities in relation to school education and the principles and values on which government and non government school education and home education are based;
- promote compulsory school education of children; and
- state when attendance at school does not apply including suspension and exclusion from school.

The Act provides for the operation and governance of government schools.

The Act provides for the registration of non government schools and the registration of home education.

CHAPTER 2 SCHOOL ENROLMENT AND ATTENDANCE

Section 9 Meaning of *compulsory school age*

Defines "*compulsory school age*" as between the ages of 6 and 15 years old.

Section 10 Compulsory enrolment

All children of compulsory school age (between 6 and 15) are to receive an education recognised by the government either at a school or at home. Parents of all children resident in the Territory are to ensure that children are enrolled in a government school, registered non government school or registered for home education.

Parents face a penalty for non compliance.

(1) States the application of the section to parents of children of compulsory school age.

(2) Requires the parents of children of compulsory school age to enrol them in an appropriate government or non government school at the appropriate educational level, or apply to register them for home education. It stipulates the penalty for non compliance.

(3) This subsection allows for the case where a child resident in the ACT receives a school education recognised by another Australian jurisdiction (eg by attending a school interstate). It states that sections (1) and (2) do not apply when the child lives in the ACT but is enrolled interstate in a school recognised by the law of the state.

This subsection also states that sections (1) and (2) do not apply when an exemption certificate is in force for a child, or the parents have a reasonable excuse for not complying with the subsection.

(4) States that an offence against this section is a strict liability offence.

Section 11 Compulsory attendance

This section requires parents to ensure their children regularly and consistently attend the school at which they are enrolled. Attendance includes all activities of the school relevant to the child, for example, a sports day, and a course in which the child is enrolled such as dance or music or vocational training that is provided off campus.

(1) Defines the application of the section to the parents of children of compulsory school age enrolled in a government or non government school.

(2) and (3) Requires parents to ensure their children attend the school or a school activity (or approved educational course) in which they are enrolled and stipulates penalties for non compliance without a reasonable excuse.

A reasonable excuse for non attendance would include illness or an important family event (such as the funeral of a close relative).

It states that an offence is defined as a strict liability offence under the ACT Criminal Code. This means that if a parent makes a genuine mistake, for example about whether a school is open on a particular day, whilst the offence is still committed, this is taken into account.

Section 12 Information about school age-children

This section enables the chief executive to investigate the circumstances where it is reasonably suspected that a child does not receive an education either at a school recognised by the government or at home by registered home education.

This section enables the chief executive to obtain information about a child of compulsory school age in order that sections 10 and 11 dealing with school enrolment and attendance may be enforced.

The chief executive is required to give written notice to parents requesting them to supply information about children of school age residing in a house and parents are required to comply with the written notice.

A penalty is stipulated for non compliance. An offence against this section is a strict liability offence.

Section 13 Employment of children under school-leaving age

The section precludes the employment of children under school leaving age when the child is required to attend a school, a school activity or an approved educational course. It stipulates a penalty for non compliance. An offence against this section is a strict liability offence.

The section also applies where a child under school leaving age is residing interstate or is enrolled in a school interstate. (For example, it is illegal to employ a child under school age in the ACT whether or not the child's residential address or school is in the ACT or NSW).

Section 14 Exemption Certificates

The section provides for exemption from attendance at school of children of school age through the issuance of an Exemption Certificate by the chief executive.

This provision allows children to pursue educational, vocational training or employment opportunities other than at school, before the school leaving age, if this is in the best interests of the child.

It also provides for exemption from school if it is in the child's best interest in order to best provide for the care, health, development and education of the child, for example to receive medical care or other care or assistance.

Section 15 Duration of exemption certificates

The section requires exemption certificates to state the period for which the exemption applies and places a limit on any exemption from schooling for any child.

Section 16 Revocation of exemption certificates

The section enables the chief executive to cancel an exemption certificate if it was issued in error or the ground on which the certificate was issued ceases to apply.

Section 17 Student transfer register

The section requires the chief executive to establish procedures for recording students' transfers between schools in the ACT.

CHAPTER 3 GOVERNMENT SCHOOLS

Part 3.1 General

Section 18 Principles on which ch 3 based

States the principles on which chapter 3 is based for the provision of the ACT government school system.

The principles cover: equity, universality, non discrimination, that government schooling is free and open to everyone and offers a broad, balanced secular education to all children from preschool to year 12.

It states that the government school system is committed to

- providing reasonable access to public education for all children in the ACT;
- maximising student educational achievements and opportunities;
- developing the emotional, physical and intellectual well being of all students;
- responsiveness to community needs;
- innovation, diversity and choice;
- preparing students to be effective local and global citizens;
- teacher, student and parent participation in all aspects of school education;
- combining central policies and guidelines with school level policies and decision making; and,
- making information available about, and being accountable for, the operation of government schools.

It also states that government funding is provided to schools to support these principles and commitments, and in recognition of the diversity of student needs.

Section 19 Minister to seek advice

This section requires the Minister to seek advice from the Government Schools Education Council on budgetary priorities and strategic directions for Government schools. The Council is established under section 54.

This requirement does not limit the Minister in the matters that may be considered in deciding budgetary priorities and strategic directions for government schools.

Part 3.2 Establishment and operation of government schools

Section 20 Establishing government schools etc

This section provides for the establishment of government schools and preschools by the Minister. It enables the Minister to decide what kind of schools to establish.

Section 20 enables the Minister to establish a school with any combination of educational level from preschool or kindergarten to year 12, a special school or other school or school related institution or service.

The latter power enables the Minister to establish institutions and services that support the operation of schools, for example institutions to assist behaviourally disturbed children, institutions providing educational materials and equipment and any other institution or service designed to assist schools and their students.

(1) Enables the Minister to establish government schools, preschools and other related educational institutions and services.

(2) Enables the Minister to decide what kind of school may be established and the educational levels for the school.

(3) Allows the Minister to establish school related institutions.

(4) Allows the Minister to name and change a name of a school or school related institution.

(5) Requires the Minister to consult with affected school communities in cases where any government school is amalgamated or closed permanently. The consultation is to include the consideration of the educational, financial and social impact on students, families and the general school community by the proposed closure or amalgamation of a school or schools.

Section 21 Operation of government schools

This section places responsibility for the operation of government schools onto the chief executive. The chief executive is responsible to the Minister.

Government schools are to be publicly owned and operated by the Territory itself.

The chief executive is required to establish procedures that give priority to the enrolment of children in the government school in their neighbourhood.

The responsibilities of government school principals are defined in terms of the educational leadership and management of the school and achievements or outcomes of the students at their school.

Principals are also required to assist school boards to carry out their functions as provided in this Act.

Principals are required to contribute to the educational policies and strategies applicable to the government school system.

Principals of government schools must ensure that parents, students and staff at the school are informed about the school's educational program and policies as well as its operation.

- (1) States that the chief executive is responsible to the Minister for the operation of government schools.
- (2) States that the Territory must own and operate government schools itself.
- (3) States that the chief executive is required to establish procedures to give priority to the enrolment of students at their local neighbourhood government school.
- (4) States that principals of government schools are responsible for educational leadership and management of schools, educational outcomes for students, supporting the school board in carrying out its functions and contributing to the educational policies and strategies for the government school system.
- (5) States that principals of government schools are required to make available to parents of students at the school as well as to staff and students of the school, information about the school's education programs and policies and the schools operation and performance.

Section 22 Investigation of complaints – government schools

This section requires the chief executive to have a process for handling complaints about government schools.

It states that:

- (1) the chief executive must develop and implement a complaints policy and procedures for government schools;
- (2) the chief executive must, as soon as practicable, investigate any complaint (that is not frivolous or vexatious) about the administration, management and operation of government schools; and,
- (3) requires the chief executive to include in the statutory annual report (under the *Annual Reports (Government Agencies) Act 1995*), details of the number of complaints investigated during the financial year of the report.

Section 23 Review of government school system

The chief executive must regularly review and report on the government school system.

Section 24 Review of operations of government schools

The chief executive must regularly carry out reviews of the effectiveness of each government school at least every five years and there should be provision for parent, teacher and student input into the reviews.

There is to be a report of each school review, a copy of which is to be given to the Minister and made available to parents, students and staff of the school.

Section 25 Reporting to parents – government schools

This section requires the principal of a government school to set up procedures for giving reports to parents at least twice a year on their child's academic progress and social development at school.

Section 26 Education to be free

States that education in a government school is to be free and no fees are to be chargeable for it.

Where a school is a registered provider of courses for overseas students, then the overseas students or other students who hold a temporary visa under the *Migration Act 1958 (Cwlth)* who attend the school may be charged course fees.

The meaning of the terms and the conditions that apply to a registered provider and course fees are in the Commonwealth's *Education Services for Overseas Students Act 2000*, which, among other things, provides for the registration of providers of overseas students, safeguards the funds of overseas students and regulates the charges for educational services for overseas students.

Section 27 Voluntary financial contributions

This section enables schools boards to invite financial contributions toward the costs of operating the school provided that the contributions are voluntary and that no child enrolled at the school whose parents do not make a contribution is deprived of benefits or services or is approached or harassed. It requires records of contributions to be confidential.

The section requires school boards to inform parents of the principles that apply when asking for voluntary financial contributions to the school.

Section 28 Secular education

Requires that government schools only provide a non-sectarian, secular education.

Secular education may include studies of different religions as distinct from education in a particular religion.

Section 29 Religious education

This section enables parents to request that their children attend religious education in a particular religion and requires a government school principal to allow reasonable time for the religious education to be provided.

The section also requires that the educational program continues for children at the school who do not attend religious education classes.

It requires that religious education must be authorised by the relevant religious body to which the person providing the education belongs.

The section further requires that children attending religious education classes be separated from other children at the school while attending the classes.

Religious education is defined as education in a particular religion in order to distinguish this education from studies of different religions referred to in section 28.

Section 30 Curriculum

This section gives the chief executive overall responsibility for setting the framework for the curriculum in government schools and establishing the principles on which the curriculum is based.

Section 31 Approved educational courses for children at government schools

This section enables the chief executive and, by delegation, the principals of government schools to approve educational courses offered by providers external to government schools as satisfactory for students attending a government school.

This provision gives schools flexibility and scope to include courses, such as vocational, specialist courses or courses at a particular level (for example, dance, outdoor education etc) otherwise not available to students at the school. The courses must be of a satisfactory standard, adequately equipped and be provided at premises that are adequate and safe.

(1) This section enables the chief executive to approve an education course that may be provided to a child enrolled at a government school.

(2) States that approval may be subject to conditions.

(3) States that the chief executive may approve an educational course only if it meets appropriate standards, that facilities are adequate and the premises where the course is provided meet health and safety standards required by Territory law.

Part 3.3 Attendance at government schools

Part 3.3 deals with attendance matters for government schools only.

Section 32 Keeping register of enrolments and attendances for government schools

This section details the procedures for ensuring children of compulsory school age always attend school. It requires records of enrolment and attendance to be maintained by principals of government schools or by persons providing an approved educational course for government schools.

A penalty is stipulated for non-compliance. An offence against this section is a strict liability offence.

Section 33 Keeping records of enrolment and attendances for government schools

Stipulates the contents of records of enrolment and attendances and a penalty for non-compliance that must be kept by principals of government or by persons providing an approved educational course for government schools.

The contents are the name of each child enrolled at the school and a record of their attendance and non attendance at the school.

The section makes principals of government schools responsible for the content of the records. A penalty is stipulated for non-compliance. An offence against this section is a strict liability offence.

Section 34 Inspection of register of enrolment and attendances for government schools

This section provides for the official inspection of records of enrolment and attendance at a government school (or courses approved for government school students) by a person authorised to do so under this Act.

(1) Requires the principal of a government school or the person giving an approved educational course for a government school to make the registers of enrolment and attendance available to an authorised person.

A maximum penalty is stipulated for non compliance.

(2) Requires the principal of a government school or the person giving an approved educational course for a government school to provide information on enrolments or attendances to the chief executive or to an authorised person (government) on request and stipulates a penalty for non compliance.

(3) Enables an authorised person (government) to take copies of records of enrolments and attendances.

(4) Requires the principal of a government school or the person giving an approved educational course to give reasonable assistance to an authorised person (government) in exercising their functions under this section.

(5) States that an offence against this section is a strict liability offence.

Section 35 Procedures to encourage school attendance at government schools

This section states the procedures to be followed by the principal of a government school when children do not attend school as required by this Act.

The procedures are intended to assist parents and encourage children to attend school. Parent cooperation is required.

(1) Makes the principal of a government school responsible for procedures to encourage children to attend school regularly and to help parents to encourage their children to attend school.

These procedures may include, for example, prompt follow up of all absences, formal and informal liaison with parents, particular educational assistance, measures to prevent or overcome resistance to schooling as well as sanctions.

(2) Requires the principal to refer parents and children to support services that encourage children to attend school regularly. This provision ensures that principals will seek additional professional support for children and their families where this would assist in ensuring the attendance of the child at school.

(3) Enables the principal of a government school by written notice to require the parents of a child not attending school to meet with an authorised person (government). This subsection places an obligation on parents to cooperate in procedures designed to ensure their children consistently attend school.

Section 36 Suspension, exclusion or transfer of a child by the chief executive

This section applies only to government schools.

This section allows the chief executive to suspend a child from attending a government school, exclude a child from enrolling at a specific government school or any government school or to require the transfer of a child from one government school to another. These powers may only be exercised in prescribed circumstances and in a way that safeguards

the rights of the child and parents. Suspensions are limited to a maximum of 20 days.

The powers are intended to ensure that all government schools maintain an environment that supports effective teaching and learning free from disruption, violence or threats of violence and that individual students comply with reasonable requirements regarding their behaviour, necessary for their education, safety and well being and that of other students.

The processes are required to include measures to protect the rights of the child who is subject to a suspension, exclusion or transfer as well as the child's parents. These rights are:

- a fair hearing;
- provision of information about the decision and the process;
- a clear and consistent process;
- an appeal;
- an opportunity for continuing the child's education during a period of suspension; and
- alternatives being offered for continuing the child's education during the exclusion.

The process may be initiated by a recommendation from a school principal to the chief executive when the principal is satisfied that action allowed under this section is appropriate.

The principal must be satisfied that exclusion, suspension or transfer is a last resort, and that all other appropriate remedies (including support and sanctions) for the child's behaviour have been reasonably applied without success.

The chief executive is given power to suspend exclude or transfer a child immediately if satisfied that it is necessary and that the rights of the child and the child's parents are respected.

It is expected that measures will be put in place to assist the child and their parents to enable the child to resume school attendance as soon as possible.

This provision allows for the immediate (formal) removal of a child from school when it is appropriate to do so in the interests of the child and the school. This action could be appropriate when a serious event occurs, for example arson or serious violence.

(1) States that this section applies under the following conditions:

- (a) A child attending a government school is persistently and wilfully non-compliant, acts in a way that threatens the good order of the school, the safety or well-being of another child at the school or a member of staff of the school, displays behaviour that is disruptive to the child's learning or that of other children or threatens to be violent or is violent to someone else at the school. This section would apply to acts taken on or off the school premises.
- (b) The principal of the school must be satisfied that action should be taken under this section.

(2) Enables the principal to recommend to the chief executive that the chief executive suspend the child from the school for a stated period not longer than 20 days; or exclude the child from the school or from all government schools; or transfer the child to another government school.

(3) Allows the chief executive discretion in responding to the principal's recommendation. It states that after considering the principal's recommendation, the chief executive may either:

- give effect to the recommendation;
- take any other action mentioned in subsection (2) that the chief executive considers appropriate; or
- suspend the child for a period not longer than 20 days.

(4) States that the chief executive may exclude a child only if:

- the child's parents are given an opportunity to be consulted, and told in writing about the action that has been taken in relation to their child and the reasons for it;
- the child is given a reasonable opportunity to attend counselling, undertake relevant educational programs or receive other appropriate assistance
- as far as the child's maturity and capacity for understanding allows, the participation of the child has been sought, and any views of the child considered, in deciding whether to suspend, exclude or transfer the child;
- the child is given sufficient information about the decision-making process, in a language and way that the child can understand, to allow the child to participate in the process; and
- the child is offered alternatives for continuing his/her education during the exclusion.

(5) States that the chief executive may suspend a child but only if:

- the child's parents are given an opportunity to be consulted, and informed in writing about the action that has been taken in relation to their child and the reasons for it;
- as far as the child's maturity and capacity for understanding allows, the participation of the child has been sought, and any views of the child considered, in deciding whether to suspend, exclude or transfer the child;

- the child is given sufficient information about the decision-making process, in a language and way that the child can understand, to allow the child to participate in the process; and
- the child is given a reasonable opportunity to continue his/her education during the suspension.

(6) Enables the chief executive to immediately suspend a child for not longer than 5 days if, in the chief executive's opinion, there are urgent or serious circumstances that require the immediate suspension.

(7) The chief executive is required to follow the requirements in subsection (5) when suspending a child under subsection (6) to the extent that it is practicable and appropriate to do so.

(8) The chief executive may suspend a child under subsection (6) while deciding what other action, if any, should be taken in relation to the child.

(9) Enables the chief executive to delegate the chief executive's power to suspend a child for not longer than five days to the principal.

Part 3.4 School boards of government schools

Division 3.4.1 Interpretation

Section 37 Definitions for pt 3.4

Sets out the definition of terms used in Part 3.4

Division 3.4.2 Establishment and membership

Section 38 Establishment of school boards.

This section establishes a school board for each government school.

Section 39 Functions of school boards etc

(1) This section states that the functions of school boards of government schools include being responsible for the general oversight of the operation of schools by:

- establishing the strategic direction and priorities of the school;
- monitoring and review of school performance, and reporting on school performance to the chief executive, parents and staff;
- developing, maintaining and reviewing the school curriculum;
- developing and reviewing educational policies at the school;
- establishing budgetary policies and approving budgets;
- establishing policies for the efficient and effective use of school assets and management of financial risk;
- developing relations with the community; and
- making recommendations to the chief executive on issues affecting the school.

A school board may exercise any other function it is given under this law or any other Territory law.

A school board should encourage parent participation in their children's learning.

The chief executive may give written directions to school boards with which the school board must comply. When the chief executive gives a direction to a particular school rather than generally to all schools, then information about that direction should be reported in an annual report required by the *Annual Reports (Government Agencies) Act 1995*.

The chief executive is allowed discretion in responding to a recommendation from a school board and need not implement such a recommendation.

Section 40 Declaration of parents and citizens associations

By this section the chief executive must call a meeting of interested parents and community members to determine a group to be representative of the parents and community of a government school if there is dispute about who the group should be. The chief executive may also call a meeting if there are appropriate circumstances for such a meeting to be called. The chief executive must recommend to the Minister the entity to be representative of the parents and community after considering the outcomes of the meeting. After considering the chief executive's recommendation, the Minister may, in writing, declare an entity to be the parents and citizens association of the school.

Section 41 Constitution of school boards generally

(1) This section details the constitution of school boards that will apply to most schools. Schools excepted are small schools (as defined in section 42) and schools which are identified as exceptions under section 43.

(2) The membership of a school board comprises:

- the principal of the school;
- one member appointed by the chief executive;
- two members elected by the staff of the school and appointed by the chief executive;
- three members elected by the parents and citizens association of the school and appointed by the chief executive; and
- for a school prescribed in the regulations, two members elected by students of the school.

(3) An eligible staff member is defined as a person employed as a member of staff of the school.

(4) An eligible student member is defined as a student at the school.

(5) The period of appointment of appointed members, staff members, parent and citizen members and student members is limited to the "prescribed period" (as defined at section 37).

(6 & 7) These subsections enable school boards to second people to the board temporarily. A school board is allowed to appoint people as members for up to 12 months provided there are no more than two members appointed by the board at the same time.

Section 42 Constitution of school board of small schools

(1) This section details the membership of the school boards of small schools.

(2) The school board of a small school shall comprise the school principal, one member appointed by the chief executive as the appointed member, one staff member appointed by the chief executive, two members elected by the parents and citizens association of the school and members appointed by the board.

(3) Only a person who is a member of staff of the school is eligible to be a staff member.

(4) This subsection allows for the staff member to be appointed in a way stated in the regulations.

(5) Limits the term of office of the appointed member, staff member and parent and citizen member to the "prescribed period" as defined in Section 37.

(6 & 7) These subsections enable school boards of small schools to second people to the board temporarily. A school board of a small school is allowed to appoint people as members for up to 12 months provided there are no more than 2 members appointed by the board at the same time.

Section 43 Constitution of school boards of school-related institutions and other schools in special circumstances

This section allows the chief executive to determine the composition of a school board of a school or school related institution but only with the written approval of the Minister. The chief executive's determination must be in writing.

(1 & 2) Allow discretion for cases when it is not appropriate that the composition of a school board detailed in sections 41 or 42 apply to a school or school related institution and when it is not practical to establish a board for an institution (for example, when it is very small, with one or two staff).

(3) Allows the chief executive to establish a board covering more than one institution.

(4) Allows the chief executive to determine the members who shall be present at a meeting of a board and the members who may not vote at a meeting of the board.

(5) Where special circumstances apply for a school for which a determination is made the chief executive may determine the constitution of the board, the members who shall be present at a meeting of a board and the members who may not vote at a meeting of the board.

(6) Stipulates that the chief executive may make a determination under subsections (2), (4) and (5) only with the written approval of the Minister.

(7) Where practical, the chief executive is required to consult parents of students at the school at a general meeting of parents.

(8) This subsection lists the matters the Minister must consider in a particular case where the chief executive is seeking to determine the constitution of a school board. The Minister must consider:

- the need for the principal of the school to be a member of the board;
- the need for the chief executive to be represented on the board;
- whether staff of the school and students at the school have been consulted about the constitution of the board;
- any comments made by the staff and students at the school about the constitution of the board; and
- the administrative needs, educational or related objectives and any special characteristics of the school.

In deciding whether to approve the determination the Minister is required to consider whether the principal and an appointee of the chief executive should be a member.

The Minister should also consider whether the staff at the school or institution and the parents and citizens and students associated with the school or institution should be consulted on the constitution and if so that their comments are taken into account.

The Minister should also take account of the administrative needs and educational or related objectives or any special characteristics of the school or other institution.

(9) By this subsection the chief executive is enabled to appoint a person to the school board in accordance with the terms of the determination made by the Minister.

(10) This subsection states that the term of office of an appointed member of a school board is to be stated in the instrument of their appointment.

(11) States that a declaration made under sub section (2), (4) or (5) must be in writing and is a disallowable instrument.

Section 44 Ending of appointment of members of school board

This section requires the chief executive to end the appointment of school board members in defined circumstances as follows:

- where a school board member ceases to be eligible to be appointed or elected to the position;
- if a member of a school board other than the school principal, has been absent from three consecutive meetings (without reasonable excuse or leave from the board); or
- where a member has contravened section 49 regarding disclosure of interest.

The chief executive may also end the appointment of a member other than the school principal for misbehaviour, physical or mental incapacity.

Section 45 Chairperson and deputy chairperson of school boards

School boards are required to elect a chairperson and deputy chairperson. The chairperson must not be the school principal or a member of staff of the school. It also requires the school board to advise the chief executive of the elections.

Section 46 School boards to take part in selection of school principals

Requires a school board of a government school when it is necessary to do so, to appoint a member to participate in a selection panel that advises the chief executive on the appointment of the principal of the school.

Division 3.4.3 Proceedings of school boards

Section 47 Time and place of meetings of school boards

(1) and (2) Allow school boards to set the time and place of meetings provided that a meeting is held at least 4 times a year.

(3) The section also allows the chairperson to call a meeting at any time, and requires the chairperson to call a meeting if asked by the Minister or chief executive or 3 members of the board to do so.

(4) The deputy chairperson or principal of the school are enabled to call meetings of the school board if the chairperson is not available.

Section 48 Procedures governing proceedings of school boards

(1) (2) and (3) provide for the chairing of all meetings of school boards. The chairperson is required to preside at all meetings at which they are present. In the absence of the chairperson, the deputy chairperson is to preside. In the absence of both the chairperson and the deputy chairperson a member chosen by the members present presides.

(4) Prescribes the quorum of a meeting of a school board.

For a school board other than those established under section 43
(*Constitution of school boards of school related institutions and other*)

schools in special circumstances), it states that business may be carried out only if there are three members present including at least one staff member and at least one parent and citizen member.

For a school board established under section 43 (*Constitution of school boards of school related institutions and other schools in special circumstances*), business may be carried out only if those members are present who are required to be so by the chief executive in the determination under section 43 (4) or (5).

(5) States that members (except the members appointed by the board) may vote on matters to be decided by the board.

(6) States that a decision of the board is to be made by majority voting of the members who are present and qualified to vote (see (12) below for a definition of non voting members). Where votes are evenly divided the member presiding has the casting vote.

(7) Enables a school board to conduct meetings by telephone, closed circuit communication or any form of communication.

(8) States that a member participating in a meeting conducted under subsection (7) is taken to be present at that meeting.

(9) If a resolution is agreed in writing by all members of a board (except non voting members, see (12) below) and notice of the resolution has been given under procedures decided by the board, then the resolution is a valid resolution even though it was not passed at a meeting of the board.

This subsection facilitates the conduct of meetings by any means of communication allowed under subsection (7).

(10) Requires school boards to keep minutes of all meetings.

(11) Allows the school board to decide its own procedures.

(12) A non voting member is defined as a board appointed member or a member of a school board appointed under section 43 who is designated as a non voting member by a determination made under section 43 (4) or (5).

Section 49 Disclosure of interest by members of school boards

This section requires members to disclose direct or indirect financial interests relevant to the business of the school board and states the procedures to be followed.

The provision is intended to enable a school board to always act in the best interests of the school regardless of any financial interest of individual board members.

- (1) States that this section applies to a member of a school board if the member has a direct or indirect financial interest in an issue being considered, or about to be considered, by the board; and the interest could conflict with the proper exercise of the member's functions in relation to the board's consideration of the issue.
- (2) States that members must disclose an interest that may conflict with the proper exercise of the member's functions to the other members at a meeting of the school board as soon as practical after the member becomes aware of the facts.
- (3) The disclosure must be minuted and the member with a financial interest must not be present when relevant issues are discussed or take part in a decision on the issue.
- (4) Requires that any other member that has a direct or indirect financial interest must not be present when relevant issues are discussed or take part in a decision on the issue.
- (5) Requires that within 14 days of the end of the financial year the school board must give the chief executive a statement of any disclosure of interest made under sub section (2) during the financial year.

Division 3.4.4 Financial matters

Section 50 School boards to approve budgets

- (1) Requires school boards of government schools to approve a budget for each year.
- (2) States that the budget must be approved before a date stated by the chief executive.
- (3) States that the budget must be in a form and compiled according to accounting or other policies and practices required by the chief executive.
- (4) Enables the chief executive to ask that a budget be approved for part of a year.
- (5) Requires the school board to comply with the chief executive's request.
- (6) States that school funds may not be expended otherwise than in accordance with an approved budget.

Section 51 Application of money of school

This section stipulates that a school may expend money only to pay costs, charges and liabilities incurred by the school.

Section 52 School boards to approve financial statement and report

This section sets out the duties of school boards regarding their functions to establish budgetary policies, approve budgets and establish policies for the efficient use of school assets and management of financial risk.

It also requires school boards to provide annual financial information and an annual report of its activities to the chief executive.

It covers the requirements for school boards:

- to approve school budgets by a date stipulated by the chief executive;
- to approve a financial statement in a form stated by the chief executive; and
- to approve an annual report in a form and by the date stated by the chief executive as soon as practical after the end of each year.

Annual reports must include

- financial statements for the year approved under subsection (1);
- a statement of how voluntary financial contributions made to the school have been or will be spent; and
- if a school board is holding funds in reserve, a statement setting out the purposes for which reserve funds are being held and the amount being held for each of those purposes.

School boards must give a copy of financial statements and annual reports to the chief executive.

The chief executive may issue guidelines about what is or is not holding funds in reserve.

Section 53 School boards to make available summaries of budget and annual report

This section ensures that parents, staff and students of the school have access to budgets, other financial information and annual reports of the activities of the school and school board.

(1) and (2) require school boards to make available summaries of the school budget and annual report to parents, staff and students of the school.

Part 3.5 Government Schools Education Council

Division 3.5.1 Establishment and membership

Section 54 Establishment of council (government)

This section establishes the Government Schools Education Council.

Section 55 Functions of council (government)

The functions of the Council are:

- (a) to advise the Minister on any aspect of the government school system;
- (b) on the request of the Minister, to inquire into and advise on any aspect of the government school system;
- (c) to meet with the Non Government Schools Education Council to discuss matters of mutual interest; and
- (d) exercise other functions given to it under this Act or other Territory law allowing flexibility for adaptation of the Council to future circumstances and needs.

Section 56 Membership of council (government)

Defines the membership of the Government Schools Education Council to comprise the chief executive and members appointed by the Minister under section 57.

Section 57 Appointed members of council (government)

(1) (a) requires the Minister to appoint a chairperson for the Council.

(b) States that the Minister is required to appoint six people who in the opinion of the Minister are experienced in one or more of the areas of business and commerce, public policy, early childhood care, education, the special needs of young people and teacher education. These members are termed "the community members".

(c) The Minister is also required to appoint ten people who in the opinion of the Minister represent the views of the peak organisations that represent government school education. These members are termed "the education members".

(2) For paragraph (1)(c), two members are chosen from nominations of the peak organisation that represent principals, two members are chosen from nominations of the government teachers' union, two members are chosen from nominations of the peak organisation that represent parents associations of government schools, two members are chosen from nominations of the peak organisation that represent students, one member is chosen from nominations of the peak organisation that represents school boards and one member is chosen from nominations of the peak organisation that represents preschool parents.

Section 58 Deputy chairperson of council (government)

Requires that the members of the Council should elect a deputy chairperson.

The Council must tell the Minister of the election of an appointed member as deputy chairperson

Section 59 Term of appointment to council (government)

This section fixes the limit of the term of appointment of a member of the Government Schools Education Council at three years.

It states the information required on the instrument of appointment as being the term of appointment and whether the member is the chairperson, an education member or community member. For education members or community members the instrument of appointment may state the group represented by the member.

Section 60 Ending of appointment to council (government)

This section enables the Minister to end the appointment of an education member if advised that the member no longer represents the views of the organisation from which the person was chosen.

The section also gives the Minister powers to end an appointment to the council in other specified circumstances. The specified circumstances are misbehaviour by the member; or that the member has contravened section 65 (Disclosure of interests by members of council (government)).

Section 61 Conditions of appointment generally of appointed members

Allows appointments to be made under conditions decided by the Minister.

Section 62 Arrangements for staff

Allows the council to arrange with the chief executive to use public servants in the chief executive's administrative unit to assist in the administration of the business of the Council.

It also states that the *Public Sector Management Act, 1994* applies to the public servants used by the Council.

Division 3.5.2 Proceedings of council (government)

Section 63 Time and place of meetings of council (government)

Allows the Council to decide the time and place of meetings provided that it meets at least twice a year.

This Section also allows the chairperson to call a meeting at any time and requires the chair to call a meeting if asked to do so by the Minister, the chief executive or at least nine members.

If the chairperson is not available, then the deputy chairperson may call a meeting.

Section 64 Procedures governing proceedings of council (government)

(1), (2) and (3) These subsections provide for meetings of the Council to be presided over by the chairperson whenever present, or in the absence of the chairperson, the deputy chairperson. In the absence of both of these officers, the members choose a fellow member to preside.

(4), (5) and (6) Specify that a quorum for conducting business at meetings is nine members, stipulates that questions are decided by majority vote and that all members may vote on a decision. The member presiding has the casting vote in the event that voting is equally divided.

(7) and (8) Enable the Council to conduct meetings by telephone, closed circuit communication or any form of communication and a member participating in such a meeting is taken to be present at the meeting.

(9) States that when a resolution is agreed in writing by all members of the Council and the notice of the resolution is given under procedures decided by the Council, then the resolution is a valid resolution even though it was not passed at a meeting of the Council. This makes the provisions under subsections 7 and 8 effective for the purpose of carrying on the business of the Council.

(10) Requires the Council to keep minutes of all meetings.

(11) Allows the Council to decide the procedures to be followed at meetings in all other particulars not covered by this section.

Section 65 Disclosure of interests by members of council (government)

The purpose of this section is to enable Council to advise and inform the Minister in support of the interests of government schooling regardless of any financial interests of individual members of the Council.

(1) Requires members to disclose direct or indirect financial interests relevant to Council business and states the procedures to be followed.

(2) States that as soon as practical after a member of the Council becomes aware of the facts the member must disclose to the other members at a meeting of the Council any financial interest that the member has that may conflict with the proper exercise of their functions.

(3) & (4) The disclosure must be minuted and any member with a financial interest must not, unless the Council otherwise decides, be present when relevant issues are discussed. The member must not take part in any decision on issues relevant to that interest that may affect the interest or be affected by the interest.

(5) Requires that within 14 days of the end of the financial year the chairperson of the Council must give the chief executive a statement of any disclosure of interest made under sub section (2) during the financial year.

Section 66 Annual report by council (government)

This section requires the Council to prepare an annual report on its operations for each financial year and give a copy of the report to the Minister as soon as practical after the end of the financial year but not later than a date stipulated by the Minister.

The Minister is required to table the report in the Legislative Assembly within 6 sitting days after the Minister receives the report from the Council.

Part 3.6 Other provisions

Division 3.6.1 Authorised persons (government)

This division applies only to government schools.

Its application is excluded for provisions in Chapter 4 (Non-Government Schools) of this Act.

Division 3.6.1 enables the chief executive to appoint authorised persons to carry out inspections of government school premises and documents in order to obtain information relevant to compliance by government schools with the requirements of this Act.

The powers and responsibilities of the chief executive in relation to authorised persons are stated.

The powers and responsibilities of authorised persons are stated.

Section 67 Appointment of authorised persons (government)

(1) Enables the chief executive to appoint a person as an authorised person (government) under this Act except for Chapter 4 (Non-Government Schools). The appointment must be in writing.

(2) Allows the regulations to prescribe a person to be an authorised person for this Act or for a provision of this Act except for Chapter 4 (Non-Government schools).

(3) An authorised person must be an Australian citizen or a permanent resident of Australia.

The chief executive must, after inquiry, certify in writing that the person is suitable to perform the duties of an authorised person having regard in particular to whether the person has had any criminal convictions, the person's employment record; and whether the person has satisfactorily completed adequate training relevant to the functions that the authorised person is proposed to perform.

Section 68 Identity cards for authorised persons (government)

(1) Requires the chief executive to issue identity cards to an authorised person, which must include a recent photograph of the authorised person, their name, the dates of issue and expiry and other information prescribed under the regulations.

(2) Requires an authorised person to return an identity card within 21 days from the time they cease being an authorised person. A penalty for non compliance is stipulated. An offence against this section is a strict liability offence.

Division 3.6.2 Inspection powers for government schools**Section 69 Power not to be exercised before identity card shown etc**

Requires an authorised person (government) to show an identity card to a person before exercising any powers under this Act in relation to that person.

Section 70 Entry to government schools

This section enables an authorised person to enter a government school at any time.

Section 71 Powers on entry

This section enables an authorised person (government) to inspect a government school or anything in it including the registers of enrolment and attendance.

Division 3.6.3 Miscellaneous**Section 72 Protection of members of school boards**

This section protects from civil liability people who are, or have been, members of school boards acting in good faith in exercising their duties. However any liability that would, apart from this provision attach to a person, is made to attach to the Territory.

Section 73 Minister to present advice of council (government)

Requires the Minister to present to the Legislative Assembly a copy of the advice given to the Minister by the Government Schools Education Council (under Section 55 (a) and (b) (functions of council (government)) within 6 sitting days after the day the advice is given to the Minister.

CHAPTER 4 NON GOVERNMENT SCHOOLS

Part 4.1 General

Section 74 Meaning of *school* in Chapter 4

States that Chapter 4 does not apply to a government school.

Section 75 Principles on which ch 4 based

Chapter 4 is based on a recognition of the diversity of different religious and educational philosophies represented in the non government school sector and recognition that the diversity reflects parent preferences for particular styles of education for their children.

It is stated that the non government schools sector is committed to developing the spiritual, physical, emotional and intellectual welfare of its students; valuing innovation, diversity, and choice; maximising student outcomes; teacher, parent and student participation in all aspects of school education; promoting the partnership between home and school; and preparing students for their full participation in all aspects of a democratic society.

Section 76 Minister to seek advice

This section requires the Minister to seek advice from the Non Government Schools Education Council on budgetary priorities and strategic directions for government schools. The Council is established under section 105.

This requirement does not limit the Minister in the matters that may be considered in deciding budgetary priorities and strategic directions for non government schools.

Section 77 Registrar

The section requires the Minister to appoint a registrar of non government schools.

Section 78 Functions of registrar

This section states that the functions of the registrar are to register non government schools and maintain a register of registered non government schools.

It also enables the registrar to be given other functions under this or other Territory laws.

Section 79 Register of non-government schools

Requires the registrar to keep a register of non government schools.

Section 80 Availability of information about operation of non-government schools and their educational programs

Requires the principal of a non government school to make available to parents of students at the school, to the staff and students of the school information on the educational programs provided by the school as well as the operation of the school.

Requires the principal of a non government school to consult parents of students at the school about the operation of the school including its educational program and policies.

Section 81 Approved educational courses for children at non-government schools

This section enables principals of non government schools to approve educational courses offered by providers external to the non government school as satisfactory for students attending the school. It gives non government schools flexibility and scope to include courses, such as vocational, specialist courses or courses at a particular level (for example, dance, outdoor education etc) otherwise not available to students at the school. The courses must be of a satisfactory standard, adequately equipped and provided at adequate and safe premises.

(1) This section enables the principal to approve an education course that may be provided to a child enrolled at a government school.

(2) States that approval may be subject to conditions.

(3) States that the principal may approve an educational course only if it meets appropriate standards, that facilities are adequate and the premises where the course is provided meet health and safety standards required by Territory law.

This section allows non government schools to utilise, for their curricula held on and off campus, educational courses from a variety of sources and suppliers.

Part 4.2 Registration – non-government schools**Section 82 Schools to be registered**

(1) Requires all non government schools in the Australian Capital Territory to be provisionally registered or registered schools.

(2) Requires that a school must only begin educating a child when it is provisionally registered or registered for the educational level at which the child is to be educated.

Penalties are stipulated for contravening these provisions.

(3) The offence under this provision is stated to be a strict liability offence (Criminal Code 2002 Section 23). A strict liability offence is where the Criminal Code 2002 makes a defence of mistake of fact available - where a person is honestly and reasonably mistaken about relevant facts (Criminal Code Section 36).

Section 83 Applications for in-principle approval for proposed registration

In principle approval is required for proposals for new non government schools and for proposals to offer additional educational levels at an existing school (for example, where a school offering years 7 to 10 proposes to extend to years 11 and 12).

In principle approval enables the Minister to consider an application for new or expanded schools with regard to the numbers of school age children in the proposed school catchment, the impact of the new school on the enrolment and viability of existing schools and the level of enrolment interest registered for the new or extended school.

(1) States the application of this section to persons who intend to make an application for the provisional registration of a school (section 85), or for registration of a school at an additional educational level (section 89).

(2) Requires the person to apply in writing to the Minister for in principle approval for the proposed registration.

(3) The application for in principle approval must be made at least two years before the person proposes to apply to the Minister for provisional registration of a school or proposed registration of a school at an additional educational level.

(4) The applicant must state the day the person proposes to begin operating the school or operating the school at the additional education level. This is termed the 'proposed opening day'. The proposed opening day must not be later than 4 years after the day the application is made to the Minister.

(5) Requires the chief executive to publish a notice of an application for in principle approval in a newspaper printed and published in the ACT.

(6) The newspaper notice must state that comments on the proposal may be sent to the Minister within a period of at least 60 days of the publication of the notice.

(7) Requires the chief executive to make a copy of the application for in principle approval available for public inspection at the chief executive's office during ordinary business hours.

Section 84 Deciding in-principle applications

(1) Requires the Minister to consider whether the proposed school would undermine the viability of existing schools, and whether there is or is likely to be demand in the community for the proposed school, including the level of registration interest shown by the community for the proposed school, in deciding whether to give in principle approval.

(2) Requires the Minister to consider whether the proposed additional educational level at a school would undermine the viability of other existing schools, and whether there is demand at the existing school for the additional level, including the level of registration of interest shown by the community for the proposed additional level, in deciding whether to give in principle approval.

(3) Requires the Minister to grant in principle approval if satisfied that approval should be given after considering any comments made under section 83 (6) (i.e. in response to a notice in a newspaper) and the matters mentioned in subsection 84 (1) or (2). The Minister must give the person in principle approval in writing.

(4) If the Minister is not satisfied that in principle approval should be given after considering any comments made under section 83 (6) (i.e. in response to a notice in a newspaper) and the matters mentioned in subsection 84 (1) or (2), the Minister must give the person notice of refusal of in principle approval in writing.

(5) A notice under subsection 84 (3) or (4) must state the Minister's reasons for giving or refusing to give in principle approval for the proposed registration.

(6) The chief executive must make a copy of the Minister's reasons available for public inspection. This must be at the chief executive's office during ordinary business hours.

(7) A time limit is stipulated for in principle approval. In principle approval lapses 2 years after the day it is given or if the proposed opening day stated section 83 (4) was more than two years before the day application was made for in principle approval, it lapses on the proposed opening day.

Section 85 Application for provisional registration

Enables an application to be made to the Minister to conduct a non government school in the Territory, provided the person making the application has in principle approval (under section 84) and that in principle approval has not lapsed.

The application is made for the initial provisional registration of the school.

It requires the applicant to give written notice of their intention to apply and to state the location of the proposed school.

A notification period applies. The notice of intention to conduct a school must be made to the Minister at least six months before the first day of the school year or school term when it is proposed to begin conducting the school. The Minister can approve a lesser period.

Section 86 Provisional registration

This section applies when an application for provisional registration has been made under section 85 and states the procedures applying for the consideration of an application for the provisional registration of a school.

The Minister is required to appoint a panel to prepare a report on the application. The school must be provisionally registered for two years if after considering the report the Minister is satisfied that the school meets the criteria for provisional registration.

If the Minister is not satisfied that the school meets the criteria for provisional registration the Minister must direct the registrar to refuse to register the school.

The section also stipulates how a school is to be provisionally registered by entering the particulars of the school required under the regulations on the register of non government schools and giving the proprietor of the school a certificate of registration.

The criteria for the provisional registration of a school are as follows.

- (a) the proprietor of the school is a corporation;
- (b) the school will have appropriate policies, facilities and equipment for the curriculum to be offered by the school and the safety and welfare of its students;
- (c) the curriculum, including the framework of the curriculum and the principles on which it is based, meets the requirements for students attending government schools;
- (d) the nature and content of the education to be offered at the school will be appropriate for the educational levels for which provisional registration of the school is sought;
- (e) the teaching staff will be qualified to teach at the educational levels at which they are to be employed to teach;
- (f) the school will have satisfactory processes to monitor quality educational outcomes; and
- (g) the school will be financially viable.

Section 87 Application for registration

This section enables the proprietor of a school that has been provisionally registered for at least twelve months to make written application for registration. The application must be for registration at the education levels for which the school is provisionally registered. The application is made to the Minister.

The chief executive must publish notice of the making of an application for registration in a daily newspaper printed and published in the ACT. The chief executive must also make a copy of the application for registration available for inspection by members of the public at the chief executive's office. This should be available during normal business hours.

Section 88 Registration

This section applies when an application for registration has been made under section 87 and states the procedures applying to the consideration of an application for the registration of a school.

The Minister is required to appoint a panel to prepare a report on the application. The school must be registered if, after considering the report, the Minister is satisfied that the school meets the criteria for registration. The school must be registered for a period not longer than five years.

If the Minister is not satisfied that the school meets the criteria for registration the Minister must direct the registrar to refuse to register the school.

The section stipulates how a school is to be registered by entering the particulars of the school required under the regulations on the register of non government schools and giving the proprietor of the school a certificate of registration.

The criteria for the registration of a school are as follows:

- (a) the proprietor of the school is a corporation;
- (b) the school will have appropriate policies, facilities and equipment for the curriculum to be offered by the school and the safety and welfare of its students;
- (c) the curriculum, including the framework of the curriculum and the principles on which it is based, meets the requirements for students attending government schools;
- (d) the nature and content of the education to be offered at the school will be appropriate for the educational levels for which the school is provisionally registered;
- (e) the teaching staff will be qualified to teach at the educational levels at which they are to be employed to teach;

(f) the school will have satisfactory processes to monitor quality educational outcomes; and

(g) the school will be financially viable.

Section 89 Application for registration at additional educational levels

This section allows the proprietor of a registered non government school to apply to extend the educational levels offered at the school. A school may apply to offer any additional educational levels. For example, a school offering Years 7 to 10 may decide to offer the additional levels of 5 and 6 or may seek to offer Years 11 and 12.

(1) and (2) The proprietor of a registered non government school must have in principle approval under section 84, and that in principle approval must not have lapsed. The proprietor must then give notice in writing to the Minister of an intention to begin conducting education at the additional educational level(s) at the school.

A notification period applies. It states that notice is given at least six months before the first day of the school year or term when it is proposed conducting education at the additional educational level or levels, or a lesser period if approved by the Minister.

(3) Requires the chief executive to publish notice of the making of an application for registration in a daily newspaper printed and published in the ACT.

(4) The newspaper notice must state that comments on the proposal may be sent to the Minister within a period of at least 60 days of the publication of the notice.

(5) Requires the chief executive to make a copy of the application for registration available for inspection by members of the public at the chief executive's office. This should be available during normal business hours.

Section 90 Registration at additional educational levels

This section applies when an application for registration at additional educational levels has been made under section 89 and states the procedures applying to the consideration of an application for the registration of additional educational levels at a school.

The Minister is required to appoint a panel to prepare a report on the application. If after considering the report the Minister is satisfied that the school meets the criteria stipulated in subsection (7), the school must be registered for the additional educational levels specified in the application.

The section stipulates how a school is to be registered by entering the particulars of the school required under the regulations on the register of non government schools and giving the proprietor of the school a certificate of registration that includes the additional educational level.

The new certificate that includes the additional educational levels replaces the school's previous certificate of registration and the proprietor must return the previous certificate within 14 days of receiving the new certificate.

If the Minister is not satisfied that the school meets the criteria for registration mentioned in subsection (7), the Minister must direct the registrar to refuse to register the school at the additional education level.

The criteria for the registration of a school at an additional educational level are as follows:

- (a) the school will have appropriate policies, facilities and equipment for the curriculum to be offered by the school and the safety and welfare of its students;
- (b) the curriculum at the additional level, including the framework of the curriculum and the principles on which it is based, will meet the curriculum requirements for students attending government schools at the educational level;
- (c) the nature and content of the education to be offered at the school will be appropriate for the additional educational levels for which registration is sought;
- (d) the teaching staff will be qualified to teach at the additional educational levels at which they are to be employed to teach;
- (e) the school will have satisfactory processes to monitor quality educational outcomes; and
- (f) the school will be financially viable.

Section 91 Conditions of provisional registration or registration

The conditions of provisional registration or registration of a school are as follows:

- (a) the proprietor of the school is, and remains, a corporation;
- (b) the school will have appropriate policies, facilities and equipment for the curriculum to be offered by the school and the safety and welfare of its students;
- (c) the curriculum, including the framework of the curriculum and the principles on which it is based, meets the requirements for students attending government schools;
- (d) the nature and content of the education to be offered at the school will be appropriate for the educational levels for which the school is registered or provisionally registered;

- (e) the teaching staff are qualified to teach at the relevant educational levels at which they are employed to teach;
- (f) the school will have appropriate processes to monitor quality educational outcomes; and
- (g) the school will be financially viable.

Section 92 Certificate of provisional registration or registration

This states that information required on a certificate of provisional registration or registration of a non government school is as follows:

- (a) the entity responsible for the operation of the school;
- (b) the educational level or levels for which the school is provisionally registered or registered;
- (c) the location of the school;
- (d) the term of provisional registration or registration; and
- (e) any other particulars required under the regulations.

The registrar may include other appropriate information.

The proprietor of a provisionally registered school or registered school must tell the registrar of a change of any of the particulars of the certificate within 1 month after the day the change happens.

Section 93 Period of provisional registration and registration

Provisional registration ends either when the school is registered under section 88 or at the end of two years whichever occurs first.

A school is registered for no longer than five years as stated in the registration certificate for the school.

Section 94 Investigation of complaints – non-government schools

This section requires the proprietor of a non government school to develop and implement a process for handling complaints about the school.

It states that the proprietor must as soon as practical investigate any complaint (that is in the proprietor's opinion, not frivolous or vexatious) about the administration, management and operation of the school.

Section 95 Cancellation of provisional registration or registration

This section enables the Minister to cancel the provisional registration or registration of a school if satisfied that the school has contravened a condition of provisional registration (see section 91) or registration or the school's proprietor or principal has otherwise contravened this Act.

The procedures to be followed for cancellation are stipulated. Before cancelling provisional registration or registration the Minister must give the proprietor written notice stating the grounds on which it is proposed to cancel the provisional registration or registration. The notice must contain the facts that establish the grounds and advise that the proprietor or principal may respond in writing to the Minister within 14 days from receipt of the notice.

The Minister must take account of any response to a notice to cancel before deciding whether to cancel provisional registration or registration.

If the Minister directs the registrar to cancel the provisional registration or registration of a school, the registrar cancels the provisional registration or registration by noting the cancellation in the particulars of the school in the register of non-government schools.

The Minister must give written notice of the decision on cancellation.

The cancellation of provisional registration or registration takes effect from the date when the notice of cancellation is given to the proprietor or a later date stated on the written notice.

Section 96 Application for renewal of registration

Enables the proprietor of a registered non government school to apply in writing for renewal of registration of the school. The proprietor of the school must apply in writing to the Minister for renewal of registration at least 6 months before the registration ends. The Minister may approve a lesser period of notification.

Section 97 Renewal of registration

This section applies when a proprietor of a school has applied for renewal of registration under section 96.

The Minister is required to appoint a panel to prepare a report on the application. If after considering the report the Minister is satisfied that the school meets the criteria stipulated in subsection (6), the school must have its registration renewed.

Registration is renewed by the registrar entering the particulars of the school required under the regulations on the register of non government schools and giving the proprietor of the school a certificate of registration.

If the Minister is not satisfied that the school meets the criteria, the registration must not be renewed.

The criteria for the renewal of registration of a school are as follows:

- (a) the proprietor of the school is, and remains, a corporation;
- (b) the school will have appropriate policies, facilities and equipment for the curriculum to be offered by the school and the safety and welfare of its students;
- (c) the curriculum, including the framework of the curriculum and the principles on which it is based, meets the requirements for students attending government schools;
- (d) the nature and content of the education to be offered at the school will be appropriate for the educational levels for which provisional registration of the school is sought;
- (e) the teaching staff will be qualified to teach at the relevant educational levels;
- (f) the school will have satisfactory processes to monitor quality educational outcomes; and
- (g) the school will be financially viable.

Part 4.3 Attendance at non-government schools

Section 98 Keeping of register of enrolments and attendances for non-government schools

This section requires the principal of a non government school or a person providing an approved educational course for a non government school to keep a register of enrolments and attendances. A penalty is stipulated for non-compliance. An offence against this section is a strict liability offence.

Section 99 Keeping records of enrolment and attendances for non-government schools

Requires principals of non government schools and a person providing an approved educational course for a non government school to keep records of student enrolments and attendances.

Stipulates the contents of records of enrolment and attendances and a penalty for non compliance.

The contents are the name of each child enrolled at the school and a record of their attendance and non attendance at the school.

The section makes principals of non government schools and people providing courses for non government schools responsible for the content of the records.

A penalty is stipulated for non-compliance. An offence against this section is a strict liability offence.

Section 100 Inspection of register of enrolment and attendances for non-government schools

This section provides for the inspection of records to support compulsory education.

The section requires the principal of a non government school, or the person giving an approved educational course (non government), to allow an authorised person (non government) to inspect registers of enrolment and attendance. A penalty is stipulated for non compliance.

This section also requires a principal of a non government school, or the person giving an approved educational course (non government), to provide information about enrolments or attendances at the school during a stated period or at a stated time if requested to do so by the chief executive or an authorised person (non government). A penalty applies if the information is not provided without reasonable excuse.

An authorised person (non government) is empowered to make copies of all or part of a register of enrolments and attendances.

Requires the principal of a non government school or the person giving an approved educational course (non government) to give reasonable assistance to an authorised person (non government) in exercising their functions under this section.

Section 101 Procedures to encourage attendance at non-government schools

States the procedures to be followed by the principal of a non government school when children do not attend school as required by this Act.

The procedures are intended to assist parents and encourage children to attend school and require parent cooperation.

(1) Makes the principal of a non government school responsible for procedures to encourage children to attend school regularly and to help parents to encourage their children to attend school.

These procedures may include, for example, prompt follow up of all absences, formal and informal liaison with parents, particular educational assistance, measures to prevent or overcome resistance to schooling as well as sanctions and any other reasonable, economic and effective procedures deemed necessary in the professional judgement of the principal.

(2) Requires the principal to refer parents and children to support services that encourage children to attend school. This provision ensures that principals will seek additional professional support for children and their

families where this would assist in ensuring the attendance of the child at school.

(3) Enables the principal of a non government school to require by written notice the parents of a child not attending school to meet with an authorised person (non government).

The section places an obligation on parents to cooperate in procedures designed to ensure their children regularly and consistently attend school.

Section 102 Reporting to parents – non-government schools

The principal of a non government school is required to report to parents at least twice a year on their child's academic progress and social development at the school.

Section 103 Suspension or exclusion of children - Catholic systemic schools

This section applies to children attending a non government school that is a Catholic systemic school.

This section allows the director to suspend a child from attending a Catholic systemic school or exclude a child from enrolling at a specific Catholic systemic school. These powers may only be exercised in prescribed circumstances and in a way that safeguards the rights of the child and parents. Suspensions are limited to a maximum of 20 days.

The powers are intended to ensure that all Catholic systemic schools maintain an environment that supports effective teaching and learning free from disruption, violence or threats of violence and that individual students comply with reasonable requirements regarding their behaviour, necessary for their education, safety and well being and that of other students.

The processes are required to include measures to protect the rights of the child who is subject to a suspension or exclusion as well as the child's parents. These rights are:

- a fair hearing;
- provision of information about the decision and the process;
- a clear and consistent process;
- an appeal;
- an opportunity for continuing the child's education during a period of suspension; and
- being offered information about alternatives for continuing the child's education after the exclusion.

The process may be initiated by a recommendation from a school principal to the director when the principal is satisfied that action allowed under this section is appropriate.

The principal must be satisfied that exclusion or suspension is a last resort, and that all other appropriate remedies (including support and sanctions) for the child's behaviour have been reasonably applied without success.

The director is given power to suspend or exclude a child immediately if satisfied that it is necessary and that the rights of the child and the child's parents are respected.

It is expected that measures will be put in place to assist the child and their parents to enable the child to resume school attendance as soon as possible.

This provision allows for the immediate (formal) removal of a child from school when it is appropriate to do so in the interests of the child and the school. This action could be appropriate when a serious event occurs, for example arson or serious violence.

(1) States that this section applies under the following conditions.

- (a) A child attending a Catholic systemic school is persistently and wilfully non compliant, acts in a way that threatens the good order of the school, the safety or well-being of another child at the school or a member of staff of the school, displays behaviour that is disruptive to the child's learning or that of other children or threatens to be violent or is violent to someone else at the school. This section would apply to acts taken on or off the school premises.
- (b) The principal of the school must be satisfied that action should be taken under this section.

(2) Enables the principal to recommend to the director that the director suspend the child from the school for a stated period not longer than 20 days; or exclude the child from the school.

(3) Allows the director discretion in responding to the principal's recommendation. It states that after considering the principal's recommendation, the director may either:

- give effect to the recommendation;
- take any other action mentioned in subsection (2) that the director considers appropriate; or
- suspend the child for a period not longer than 20 days.

(4) States that the director may exclude a child only if:

- the child's parents are given an opportunity to be consulted, and told in writing about the action that has been taken in relation to their child and the reasons for it;
- the child is given a reasonable opportunity to attend counselling, undertake relevant educational programs or receive other appropriate assistance
- as far as the child's maturity and capacity for understanding allows, the participation of the child has been sought, and any views of the child considered, in deciding whether to suspend or exclude the child;
- the child is given sufficient information about the decision-making process, in a language and way that the child can understand, to allow the child to participate in the process; and
- the child is offered information about alternatives for continuing the child's education after the exclusion.

(5) States that the director may suspend a child but only if:

- the child's parents are given an opportunity to be consulted, and informed in writing about the action that has been taken in relation to their child and the reasons for it;
- as far as the child's maturity and capacity for understanding allows, the participation of the child has been sought, and any views of the child considered, in deciding whether to suspend or exclude the child;
- the child is given sufficient information about the decision-making process, in a language and way that the child can understand, to allow the child to participate in the process; and
- the child is given a reasonable opportunity to continue his/her education during the suspension.

(6) Enables the director to immediately suspend a child for not longer than 5 days if, in the director's opinion, there are urgent or serious circumstances that require the immediate suspension.

(7) The director is required to follow the requirements in subsection (5) when suspending a child under subsection (6) to the extent that it is practicable and appropriate to do so.

(8) The director may suspend a child under subsection (6) while deciding what other action, if any, should be taken in relation to the child.

(9) Enables the director to delegate the director's power to suspend a child for not longer than five days to the principal.

(10) If the director excludes a child from all Catholic systemic schools, the director must give the registrar written notice of this exclusion.

(11) Director means the person who is occupying the position prescribed under the regulations.

Section 104 Suspension or exclusion of children – other non-government schools

This section applies to children attending a non government school other than a Catholic systemic school.

This section allows the principal to suspend a child from attending a specific non government school or exclude a child from enrolling at that school. These powers may only be exercised in prescribed circumstances and in a way that safeguards the rights of the child and parents. Suspensions are limited to a maximum of 20 days.

The powers are intended to ensure that all non government schools maintain an environment that supports effective teaching and learning free from disruption, violence or threats of violence and that individual students comply with reasonable requirements regarding their behaviour, necessary for their education, safety and well being and that of other students.

The processes are required to include measures to protect the rights of the child who is subject to a suspension or exclusion as well as the child's parents. These rights are:

- a fair hearing;
- provision of information about the decision and the process;
- a clear and consistent process;
- an appeal;
- an opportunity for continuing the child's education during a period of suspension; and
- being offered information about alternatives for continuing the child's education after the exclusion.

The principal must be satisfied that exclusion or suspension is a last resort, and that all other appropriate remedies (including support and sanctions) for the child's behaviour have been reasonably applied without success.

The principal is given power to suspend or exclude a child immediately if satisfied that it is necessary and that the rights of the child and the child's parents are respected.

It is expected that measures will be put in place to assist the child and their parents to enable the child to resume school attendance as soon as possible.

This provision allows for the immediate (formal) removal of a child from school when it is appropriate to do so in the interests of the child and the school. This action could be appropriate when a serious event occurs, for example arson or serious violence.

- (1) States that this section applies under the following conditions.
 - (a) A child attending a non government school (that is not a Catholic systemic school) is persistently and wilfully non compliant, acts in a way that threatens the good order of the school, the safety or well-being of another child at the school or a member of staff of the school, displays behaviour that is disruptive to the child's learning or that of other children or threatens to be violent or is violent to someone else at the school. This section would apply to acts taken on or off the school premises.
 - (b) The principal of the school must be satisfied that action should be taken under this section.
- (2) Enables the principal to suspend the child from the school for a stated period not longer than 20 days; or exclude the child from the school.
- (3) States that the principal may exclude a child only if:
 - the child's parents are given an opportunity to be consulted, and told in writing about the action that has been taken in relation to their child and the reasons for it;
 - the child is given a reasonable opportunity to attend counselling, undertake relevant educational programs or receive other appropriate assistance;
 - as far as the child's maturity and capacity for understanding allows, the participation of the child has been sought, and any views of the child considered, in deciding whether to suspend or exclude the child;
 - the child is given sufficient information about the decision-making process, in a language and way that the child can understand, to allow the child to participate in the process; and
 - the child is offered information about alternatives for continuing the child's education after the exclusion.
- (4) States that the principal may suspend a child but only if:
 - the child's parents are given an opportunity to be consulted, and informed in writing about the action that has been taken in relation to their child and the reasons for it;
 - as far as the child's maturity and capacity for understanding allows, the participation of the child has been sought, and any views of the child considered, in deciding whether to suspend or exclude the child;

- the child is given sufficient information about the decision-making process, in a language and way that the child can understand, to allow the child to participate in the process; and
- the child is given a reasonable opportunity to continue his/her education during the suspension.

(5) Enables the principal to immediately suspend a child for not longer than 5 days if, in the principal's opinion, there are urgent or serious circumstances that require the immediate suspension.

(6) The principal is required to follow the requirements in subsection (5) when suspending a child under subsection (6) to the extent that it is practicable and appropriate to do so.

(7) The principal may suspend a child under subsection (6) while deciding what other action, if any, should be taken in relation to the child.

(8) If the principal excludes a child, the principal must notify the registrar in writing of the exclusion.

Part 4.4 Non-Government Schools Education Council

Division 4.4.1 Establishment and membership

Section 105 Establishment of council (non-government)

Establishes a Non government Schools Education Council

Section 106 Functions of council (non-government)

(a) and (b) The functions of the Council are to advise the Minister on any aspect of non government schooling and, on the request of the Minister, to inquire into and advise on any aspect of non government schooling.

(c) The Council may meet with the Government Schools Education Council to discuss matters of mutual interest.

(d) The Council may also exercise other functions given to it under this Act or other Territory law allowing flexibility for adaptation of the Council to future circumstances and needs.

Section 107 Membership of council (non-government)

Defines the membership of the Non government Schools Education Council to comprise the members appointed by the Minister under section 108.

Section 108 Appointed members of council (non-government)

The purpose of this section is to ensure the Council comprises persons who represent the interests of the non government school community and the general community.

(1)(a) Requires the Minister to appoint a chairperson.

(1)(b) The Minister is required to appoint four people who in the opinion of the Minister represent the general community. These members are termed "community members".

(1)(c) and (2) The Minister is required to appoint six people who in the opinion of the Minister represent the views of non government school education. Three people must be chosen from the nominations of organisations representing Catholic schools. One person must be chosen from the nominations of each of the organisations that represent non catholic independent schools, the non government school union, and the parents associations of non government schools. These members are termed "education members".

Section 109 Deputy chairperson of council (non-government)

Requires one of the appointed members to be elected as a deputy chairperson by the other members. The Council must tell the Minister of the election of the member as deputy chairperson.

Section 110 Term of appointment to council (non-government)

This section specifies the term of appointment of a member as not longer than three years.

It also states the information required on the instrument of appointment or letter appointing a member. The information to include is: whether the member is the chairperson, or a community member or an education member.

Section 111 Ending of appointment to council (non-government)

This section enables the Minister to end an appointment to the Council if the Minister is satisfied that a member no longer represents the interest of the body that nominated the member.

The Minister may also end an appointment for misbehaviour by the member, or because the member has contravened section 116 (Disclosure of interests by members of council).

Section 112 Conditions of appointment generally of council (non-government)

Allows appointments to be made under conditions decided by the Minister.

Section 113 Arrangements for staff

Allows the Council to arrange with the chief executive to use public servants in the chief executive's administrative unit.

It also states that the *Public Sector Management Act, 1994* applies to the public servants used by the council.

Division 4.4.2 Proceedings of Council (non-government)

Section 114 Time and place of meetings of council (non-government)

Allows the Council to decide the time and place of its meetings provided that it meets at least twice a year.

Section 115 Proceedings of council (non-government)

This section requires the Council to keep minutes of all meetings but otherwise allows the committee to decide the procedures to be followed at meetings.

Section 116 Disclosure of interests of members of council (non-government)

The purpose of this section is to enable the Council to advise and inform the Minister having regard to personal financial interests of individual members of the Council.

(1) Requires members to disclose direct or indirect financial interests relevant to Council business and states the procedures to be followed.

(2) States that as soon as practical after a member of the Council becomes aware of the facts, that member must disclose to the other members at a meeting of the Council any financial interest that he/she has that may conflict with the proper exercise of their functions.

(3&4) The disclosure must be minuted and the member with a financial interest must not be present, unless the Council decides otherwise, when relevant issues are discussed. The member, or any other member who also has a direct or indirect financial interest in the issue, must not take part in any decision on issues relevant to that interest that may affect the interest or be affected by the interest.

(5) Requires that within 14 days of the end of the financial year the chair of the Council must give the chief executive a statement of any disclosure of interest made under subsection (2) during the financial year.

Section 117 Annual report by council (non-government)

This section requires the Council to prepare an annual report on its operations for each financial year and give a copy of the report to the Minister as soon as practical after the end of the financial year but not later than a date stipulated by the Minister.

The Minister is required to table the report in the Legislative Assembly within six sitting days after the Minister receives the report from the Council.

Part 4.5 Other provisions

Division 4.5.1 Authorised persons (non-government)

This part enables the chief executive to appoint authorised persons (non government) to carry out inspections of premises and documents in order to obtain information relevant to compliance by schools, other organisations and persons with the requirements of any provision of Chapter 4 of this Act.

The powers and responsibilities of the chief executive in relation to authorised persons (non government) are stated.

The powers and responsibilities of authorised persons (non government) are stated.

The rights and responsibilities of non government school principals or proprietors are stated in relation to the exercise of the responsibilities of authorised persons (non government).

Section 118 Appointment of authorised persons (non-government).

(1) Enables the chief executive to appoint a person as an authorised person (non government) for Chapter 4 or a provision of Chapter 4 of this Act. The appointment must be in writing.

(2) Allows the regulations to prescribe a person to be an authorised person (non government) for Chapter 4 or a provision of Chapter 4 of this Act.

An authorised person (non government) must be an Australian citizen or a permanent resident of Australia.

The chief executive must after inquiry, certify in writing, that the person is suitable to perform the duties of an authorised person (non government) having regard to person's criminal history (if any), employment record and if the person has satisfactorily completed adequate training in the functions that they are to perform.

Section 119 Identity cards for authorised persons (non government)

(1) Requires the registrar to issue an identity card to an authorised person (non government) which must include a recent photograph of them, their name, the dates of issue and expiry and other information prescribed under the regulations.

(2) Requires an authorised person (non government) to return an identity card to the registrar within 21 days of ceasing to be an authorised person (non government). A penalty for non compliance is stipulated. An offence against this section is a strict liability offence.

Division 4.5.2 Inspection powers for non-government schools

Section 120 Power not to be exercised before identity card shown etc

Requires an authorised person (non government) to show an identity card to a person before exercising any powers under Chapter 4 of this Act in relation to that person.

An authorised person (non government) is not permitted to remain in a non government school entered under this division, if they do not produce an identity card when requested to do so by the principal.

Section 121 Entry to non-government schools for inspections

Gives power to an authorised person (non government) to enter the premises of a non government school at any time they are being used as a school, to carry out an inspection of the school in regards to the school complying with this Act.

Section 122 Entry to non-government schools with consent

This section allows an authorised person (non government) to enter a non government school other than for an inspection, only with the consent of the principal.

It also enables an authorised person (non government) to enter a non government school without consent in order to seek consent to enter the school.

Section 123 Consent to entry

- (1) This section applies when an authorised person (non government) intends to seek consent to enter a non government school.
- (2) Requires that before asking for consent to enter, an authorised person (non government) must inform the principal of the non government school the reason for the entry and that they are not required to give consent.
- (3) If consent is given, the authorised person (non government) must ask the principal to sign a written acknowledgement.
- (4) The written acknowledgement must state that the principal was told the reason for the entry, that consent to entry is not compulsory and may be refused, that the principal gives consent to enter and exercise powers under Chapter 4 of this Act and the time and date the consent is given.
- (5) The principal must be given a copy of the acknowledgement if they have signed it.
- (6) A court may assume that a principal did not consent when:

- (a) a question arises, in a proceeding in the court, whether the principal consented to the authorised person (non government) entering the school or premises under this Act;
- (b) an acknowledgment under this section is not produced in evidence for the entry; and
- (c) it is not proved that the principal consented to the entry.

Section 124 Powers on entry

The purpose of this section is to enable an authorised person (non government) to collect information to ascertain if a school is complying with the provisions of this Act.

This section enables an authorised person (non government) who has entered a non government school under sections 121 or 122 to inspect the premises and facilities of the school including registers of enrolment and attendance.

Division 4.5.3 Miscellaneous

Section 125 Inspection of register of non-government schools

This section enables a person to inspect the register of non government schools without charge and, enables a person to copy all or part of a register on payment of a reasonable charge for copying costs.

Section 126 Minister to present advice of council (non-government).

Requires the Minister to present to the Legislative Assembly a copy of the advice given to the Minister by the Non Government School Education Council (under Section 106(a) or (b)) within six sitting days after the day the advice is given to the Minister.

CHAPTER 5 HOME EDUCATION

Part 5.1 General

Section 127 Principles on which ch 5 are based

Chapter 5 is based on the recognition of a parent's right to choose a suitable educational environment for their children.

It also recognises the diversity of different religious and educational philosophies held by parents providing home education for their children and the diversity of educational philosophies reflected in the particular forms of education parents provide for their children.

It states that home education is committed to:

- offering a broad range of opportunities that foster in each child the development of the child's unique spiritual, emotional, physical, social and intellectual being;
- valuing the individual needs, interests and aptitudes of each child; and,
- preparing each child to become an independent and effective local and global citizen.

Part 5.2 Registration – home education

Section 128 Meaning of *home education*

Home education is defined as education provided by the child's parents mainly in the child's home.

Section 129 Application for provisional registration for home education

Parents may apply in writing to the chief executive for provisional registration for home education for their children. The chief executive must provisionally register a child for home education. Provisional registration for home education ends six months after the day the provisional registration begins.

Section 130 Registration for home education

The purpose of this provision is to ascertain that persons intending to home educate their children meet the requirements for registration for home education.

(1) Enables the chief executive to register a child for home education not earlier than after three months of provisional registration. A parent of the child must apply in writing to the chief executive for registration for home education.

(2) Section 130 also applies if the parents of a child apply in writing to chief executive for registration for home education and immediately before

the application the child was registered or approved under the law of a State or another Territory for home education.

(3) In order to register a child the chief executive must be satisfied that the conditions of registration for home education will be complied with. The period of registration may not be for a period longer than two years.

(4) Allows an authorised person (government) to inspect any education programs, materials and other records proposed to be used for home education.

Section 131 Conditions of registration for home education

The conditions for registration of home education are as follows:

- (a) that the parents of the child provide a high quality education for the child; and
- (b) the parents of the child must document the educational opportunities provided to their child and their strategies to encourage their child to learn;

Section 132 Registration of child

If the chief executive approves the registration of a child for home education then the chief executive is responsible for ensuring that the particulars of the home education arrangements as specified in the regulations are entered in a register kept under section 138 (Home education register).

The chief executive must ensure that a certificate of registration that states the term of the registration is given to the parents registered to home educate a child.

Section 133 Period of registration

The term of registration for home education is to be no longer than two years. The term is to be stated in a certificate of registration.

Section 134 Cancellation of registration for home education

This section states the process for a cancellation of registration for home education by the chief executive.

(1) The chief executive is authorised to cancel a registration for home education if satisfied on reasonable grounds that a parent has contravened a condition of registration.

(2) Before cancelling a registration the chief executive must give the parent a written notice that states the grounds for cancellation, the facts that establish the grounds and advising the parent that they may provide a written response within 14 days of receiving the notice.

(3) In considering whether to cancel registration, the chief executive is required to take account of any written response from parents given in accordance with Subsection (2)(c).

(4) The chief executive must give the parents written notice of the decision.

(5) The cancellation takes effect on the day the parents are given the written notice or on the day stated in the notice.

Section 135 Certificate of registration for home education

A certificate of registration for home education must include:

- the name of the child registered for home education;
- the name of the child's parents or parent;
- where the home education is to be given and the parts of the premises used for home education;
- the period of registration;
- the conditions of registration and
- any other particulars prescribed under the regulations.

Section 136 Renewal of registration for home education

Parents of children who are registered for home education may apply in writing to the chief executive for renewal of registration.

The application must be made at least 6 months before the registration ends. The chief executive may approve a lesser period.

In order to renew the registration of a child the chief executive must be satisfied that the conditions of registration for home education will be complied with. The period of registration may not be for a period longer than two years

Section 137 Home education reports

Parents of a child registered for home education are to give a report about the educational progress of the child to the chief executive once every year.

Section 138 Home education register

The chief executive is to maintain a home education register listing details of the children registered for home education.

Part 5.3 Inspection powers for home education premises

Section 139 Power not to be exercised before identity card shown etc

Requires an authorised person (government) to show an identity card to a person before exercising any powers under Chapter 5 of this Act in relation to that person.

An authorised person (government) is forbidden to remain on premises entered under this part, if the authorised person (government) does not produce an identity card when requested to do so by the occupier.

Section 140 Entry to home education premises with consent

The purpose of this section is to permit an authorised person (government) to enter with consent those parts of a house used for home education to enable the authorised person to assess whether this Act is being complied with. An authorised person (government) may enter land around the premises to ask for consent to enter the premises without a parent's consent.

The section gives power to an authorised person (government) to enter, if the parent of the child consents to the entry, but only to those parts of the premises stated in a certificate of registration for home education as the parts used for home education. The purpose of the entry is to ascertain if the home education arrangements comply with this Act.

Section 141 Consent to entry

(1) This section applies when an authorised person (government) intends to seek the consent of the parent of the child registered for home education to enter home education premises.

(2) Before asking for consent to enter, an authorised person (government) must inform the parent the reason for the entry and that they are not required to give consent.

(3) If consent is given, the authorised person (government) may ask the parent to sign a written acknowledgment.

(4) The written acknowledgment must state that the parent was told the reason for the entry, that consent to entry is not compulsory and may be refused, that the parent gives consent to enter and the date and time the consent is given.

(5) The parent must be given a copy of the acknowledgment if they have signed it.

(6) A court may presume that a parent did not consent when:

- (a) a question arises, in a proceeding in the court, whether the parent consented to the authorised person (government) entering the home-school or premises under this Act;
- (b) an acknowledgment under this section is not produced in evidence for the entry; and
- (c) it is not proved that the parent consented to the entry.

Section 142 Powers on entry

The purpose of this section is to enable an authorised person (government) to collect information required to ascertain if home education arrangements comply with the provisions of this Act. It restricts the entry and inspection powers only to those parts of the premises stated in the certificate of registration to be used for home education and only to home education materials.

This section enables an authorised person (government) who has entered a home education premises under section 140 (Entry to home education premises with consent) to inspect the premises stated in a certificate of registration for home education as the parts of the premises to be used for home education or anything in them.

CHAPTER 6 MISCELLANEOUS

Part 6.1 Review of decisions

Section 143 Meaning of reviewable decision for Part 6.1

Specifies that a **reviewable decision** in this part means:

either

(a) a decision of the Minister mentioned in an item in Schedule 1, Part 1.1, Column 3 under a provision of this Act mentioned in Schedule 1, Part 1.1, Column 2; or

(b) a decision of the chief executive mentioned in an item in Schedule 1, part 1.2, column 3 under a provision of this Act mentioned in schedule 1, part 1.2, column 2.

Section 144 Notice of decisions to be given to affected people

When the Minister or the chief executive makes a reviewable decision they must give written notice of the decision to each person mentioned in schedule as follows:

(1) If the Minister makes a reviewable decision, the written notice must be given to each person mentioned in Schedule 1 part 1.1, column 4 in relation to the decision, eg a decision made on the application for in principle approval for provisional registration of a school or registration of a school at an additional educational level.

(2) If the chief executive makes a reviewable decision, the written notice must be given to each person mentioned in Schedule 1, part 1.2, column 4 in relation to the decision.

(3) A notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, Section 25B (1).

The Code of Practice

The Code of Practice (*Administrative Appeals Tribunal Act 1989*, Section 25B (1)) states at Part 4 - Contents of Notices:

- (1) Every notice of rights of review should, in simple and brief terms, inform the person to whom it is given of the following information-
 - (a) a succinct explanation for the decision;
 - (b) any statutory right of the person to ask for reasons for the decision (if a form of reason has not already been given);
 - (e) the name, location, postal and document exchange addresses and the telephone and facsimile numbers of the review authority;
 - (d) whether the review authority is independent of the agency that

- made the decision and whether the authority has the power to overturn the decision;
- (e) how applications for review are to be made and any time limits applying to applications;
 - (f) whether or not fees are payable for applications review and, if so, the amount of the fees and when they are payable;
 - (g) whether a waiver of fee payment may be applied for and, if so, the basis of the application;
 - (h) any time limits within which the review authority must review the decision;
 - (i) any time limits within which the review authority must review the application; and,
 - (i) any right that the person has to obtain access to documents about the decision under the Freedom of Information Act 1989 or any other Act or administrative arrangement, and the basic procedures for exercising that right.
- (2) Subclause (1) does not, by implication limit the information that may be given, but consideration should be given to including, where appropriate, information concerning:
- (a) the availability of legal, financial and other forms of advice and assistance;
 - (b) whether or not there are provisions permitting costs to be awarded against parties to the proceedings; and
 - (c) procedures of the review authority about which the persons to whom notices are directed should particularly be aware, such as whether attendance is required at hearings and the availability of interpreter services.

Section 145 Who may apply for internal review of decisions

- (1) A person whose interests are affected by a reviewable decision may apply in writing to the decision maker for internal review of the decision.
- (2) The decision maker must arrange for someone else (the **internal reviewer**) to review the decision.
- (3) This section does not apply to a reviewable decision made personally by the Minister or chief executive.

Section 146 Applications for internal review

- (1) An application for internal review of a decision must be made within:
 - (a) 28 days after the applicant is told about the decision by the decision maker; or
 - (b) any longer period allowed by the internal reviewer either before or after the end of the 28 day period.
- (2) The application for internal review must state the grounds on which internal review of the decision is sought.

(3) The outcome of a decision may take effect regardless of an application being made for internal review of the decision.

Section 147 Internal Review

(1) The internal reviewer is to review the reviewable decision and confirm, vary or revoke the decision within 28 days after the decision maker receives the application for review of the decision.

(2) If the decision is not varied or revoked within 28 days the decision is taken to be confirmed by the internal reviewer.

(3) The internal reviewer must give written notice of the decision on the internal review to the applicant as soon as is practicable.

(4) The notice must be in accordance with the code of practice in force under the *Administrative Appeals Tribunal Act 1989* Subsection 25B (1).

Section 148 Review by administrative appeals tribunal of certain decisions

A person may apply in writing to the Administrative Appeals Tribunal for review of decisions made by an internal reviewer, or of a reviewable decision made personally by the Minister or chief executive.

Part 6.2 Other provisions

Section 149 Preschools

The chief executive is to encourage and provide opportunities for the participation of parents in the conduct of preschools.

Section 150 Offences on school premises

The purpose of this section is to protect school premises from trespass and from offensive or disorderly conduct by people on school premises.

A person commits an offence when they are on school premises, fail to leave the premises when directed to do so by a police officer, the principal or a person authorised by the principal.

A penalty of 10 penalty units is stipulated.

The offence under this provision is stated to be a strict liability offence (Criminal Code 2002 Section 23). A strict liability offence is where the Criminal Code 2002 makes a defence of mistake of fact available - where a person is honestly and reasonably mistaken about relevant facts (Criminal Code Section 36).

School premises are defined for the purpose of this section as the land including buildings and other structures on the land occupied by a school.

Section 151 Obligations on parents

Any person who has legal parental responsibility for a child under this Act may be held responsible for carrying out an obligation that applies to the parents of a child. Similarly anyone who has legal parental responsibility may carry out an obligation in respect of a child.

(1) Where, in this Act, an obligation is expressed to apply to the parents of a child any parent may carry out the obligation.

(2) Each parent is liable when an obligation laid on the parent of a child is not carried out.

Section 152 Notification of parents

Any person who has legal parental responsibility for a child under this Act may be given information, required to do something or be advised of anything in respect of the child under this Act.

Any one of a child's parents may be asked for information, asked to carry out a task and advised or informed of anything under this Act.

It is not necessary for all of those who have a parental responsibility for the child to be so asked for information, carry out a task advised or informed.

If a notice is required to be given to the parents of a child, or there is an obligation to ask or tell the parents of a child something, it is sufficient if a parent of the child is given notice or asked or told the thing.

Section 153 Minister may grant scholarships etc

The Minister may give bursaries, exhibitions, free places, prizes scholarships or other forms of assistance or reward to be used for the benefit of a student at a government school, college or university in the ACT, or for the benefit of a government school, college or university in the ACT, or for a child registered for home education in the ACT. This does not appropriate public money

Section 154 Gifts and donations

(1) and (2) If the Minister is satisfied that a condition attached to a gift or bequest to the Territory on trust for educational purposes is inappropriate, impracticable or impossible to comply with, the Minister may, in writing, declare the property of the trust (called the *original trust*) is subject to another trust.

(3) The declaration made by the Minister must state the purposes of the other trust.

(4) The Minister must ensure that the property is dealt with as nearly as practicable for the purposes for which it was held immediately before the declaration.

(5) When the declaration commences, the original trust ceases and the property is taken to be held by the Territory in trust for the purposes stated in the declaration.

(6) The declaration is a notifiable instrument.

Section 155 Education trust fund

(1) The Minister must keep and administer a fund called the education trust fund.

(2) States that the assets of this fund may only be used in accordance with this section.

(3) Requires the chief executive to open and maintain under section 51 of the *Financial Management Act 1996* a trust account with an authorised deposit-taking institution to be used only for this fund. The trust account is called the *education trust account*.

(4) The account consists of money held by the Territory in trust in relation to anything mentioned in section 153 (Minister may grant scholarships etc), and any other money that may lawfully be paid into the fund.

(5) The fund may only be used for promoting education, giving bursaries, exhibitions, free places, prizes, scholarships or other forms of assistance or reward for a benefit mentioned in section 153. The fund may also be used for any other purpose prescribed under the regulations.

Section 156 Approved forms

The Minister may approve forms for this Act. When the Minister approves a form for a particular purpose, the approved form must be used for that purpose. An approved form is a notifiable instrument.

Section 157 Regulation-making power

(1) Empowers the Executive to make regulations for this Act.

(2) Enables the regulations to create offences for contravention of regulations but sets the maximum penalty at 10 penalty units.

CHAPTER 7 TRANSITIONAL PROVISIONS

Part 7.1 Assets and liabilities of former authority

Section 158 Meaning of *former authority*

Defines *former authority* to mean the authority established under the *Schools Authority Act 1976* now repealed under this Act.

Section 159 Vesting of assets and liabilities of former authority in Territory

The assets and liabilities of the former Schools Authority (extinguished by repeal in sections 174 and 175) may be transferred to the Territory.

Any current contractual arrangement may pass from the Schools Authority to the Territory.

(1) The assets or liabilities of the former authority vest in the Territory.

(2) If an asset or liability that vests in the Territory is mentioned in a contract, agreement or arrangement, a reference in the contract, agreement or arrangement to the former authority is, in relation to anything happening or to happen in relation to the asset or liability after the vesting of the asset in the Territory, a reference to the Territory.

Section 160 Evidentiary certificate for vested assets and liabilities

The chief executive may create documents certifying the transfer of assets or liabilities from the former Schools Authority to the Territory. It affirms the validity of those documents.

(1) The chief executive may certify that an asset or liability has vested in the Territory under section 159 (Vesting of assets and liabilities of former authority in Territory).

(2) A certificate under subsection (1) is evidence of the matters it states.

Section 161 Registration of changes in title to certain assets

A registering authority is required to transfer the registration of the assets of the former Schools Authority to the Territory. Even if this transfer is not done by actually changing the register it is taken to have been done by this Act.

(1) States the application of the Section to a registrable asset vested in the Territory and for which the Territory has given the registrable authority a certificate under Section 159 (Vesting of assets and liabilities of former authority in Territory) and the Territory gives the registering authority for the asset a certificate under section 160 for the asset.

(2) A registrable authority may enter particulars in the register and anything else that needs to be done to record the vesting of the asset in the Territory.

(3) The evidentiary value of a register mentioned in this section is not affected by making an entry in the register, not making an entry in the register or failure by the Territory to give a certificate to the registering authority for the registrable asset.

(4) Defines a **registering authority** and **registrable asset** for the purpose of this section:

a **registering authority** is the person required or permitted under Territory law to enter the ownership of assets in a register; and

a **registrable asset** is an asset including land, the particulars of which under Territory law are required or permitted to be entered in a register.

Section 162 Proceedings and evidence in relation to vested assets and liabilities

(1) This Section applies in relation to an asset or liability that vests in the Territory under section 159 (Vesting of assets and liabilities of former authority in Territory).

(2) If a proceeding had been begun in relation to the asset or liability before it vested in the Territory and the former authority is a party to the proceeding, the Territory is substituted for the former authority as a party to the proceeding.

(3) If a proceeding could have been begun by or against the former authority in relation to the asset or liability before it vested in the Territory, the proceeding may be begun by or against the Territory.

(4) The *Limitation Act 1985* applies to a cause of action that accrued to or against the former authority in relation to the asset or liability as if the cause of action had accrued to or against the Territory when it accrued to or against the former authority.

(5) A court or other entity in which a proceeding is begun or continued by or against the Territory in relation to the asset or liability may give directions about the conduct of the proceeding.

(6) Any evidence that would have been admissible for or against the former authority in the proceeding is admissible for or against the Territory.

(7) In this section **"proceeding"** includes a right of appeal or review (including a right of review under the *Ombudsman Act 1989*) or any other civil proceeding.

Part 7.2 General savings

Section 163 Definitions for Part 7.3

Defines:

commencement day as the day the *Schools Authority Act 1976* is repealed;

former authority Act as the *Schools Authority Act 1976* (repealed by this Act); and,

former education Act as the *Education Act 1937* (repealed by this Act).

Section 164 Existing schools etc

Continues the legal existence under this Act of all schools established under the *Schools Authority Act 1976* and in existence immediately before this Act.

It similarly provides for the continued legal existence under this Act of a school or other educational or related institution, educational service, or educational or related service established under the former *Schools Authority Act 1976*.

(1) Provides for a preschool, primary school, high school or secondary college established under the former authority Act, Section 6 (1) (a) (i) that was in existence immediately before the commencement to be taken, after the commencement, to be a school of that kind established under section 20 (1) (Establishing government schools etc) of this Act.

(2) Provides for a school or other educational or related institution, educational service, or educational or related service established under the former authority Act, section 6, other than section 6 (1) (a) (i), that was in existence immediately before the commencement to be taken, after the commencement, to be a school related educational institution established under section 20 (3) (Establishing Government schools etc) of this Act.

Section 165 Name of schools, institutions and services

Provides for the continued legal use under this Act of the name of a preschool, school, college, institution or service established under the former *Schools Authority Act 1976*.

(1) Applies this section to a preschool, primary school, high school or secondary college, a school or other educational related institution, or an educational or related service, established under the former authority Act that was in existence immediately before the commencement.

(2) Provides for the continued use of a name given to the preschool, school, college, institution or service under this Act.

Section 166 School boards

Provides for the continued legal existence under this Act of a school board established under the former *Schools Authority Act 1976*.

A school board established under section 37 of the former authority Act is taken, after the commencement, to have been established under section 38 (Establishment of school boards) of this Act.

Section 167 Parents and citizens associations

This section continues the legal validity under this act of a declaration of a parents and citizens association for a government school made under the former *Schools Authority Act 1976*.

A parents and citizens association for a government school may be declared under subsection 36 (2) of the former authority Act to be taken, immediately before the commencement day, to be the parents and citizens association declared under section 40 (Declaration of parents and citizens associations) of this Act for the school.

Section 178 Members of school boards

Provides for the continued membership for the duration of their current term of office of members of school boards appointed under the former *Schools Authority Act 1976*.

Provides for a member of a school board who was elected or appointed under section 40, 41 or 42 of the former authority Act immediately before the commencement to hold office, after the commencement, as a member elected or appointed under section 41 (Constitution of school boards generally), section 42 (Constitution of school boards of small schools), or section 43 (Constitution of school boards of school related institutions and other schools in special circumstances) of this Act for the remainder of the term for which the member was appointed.

Section 169 Exemption certificates

Provides for the an exemption certificate given under section 16 of the former *Education Act 1937* immediately before the repeal of that Act to continue to be in force under section 14 (Exemption certificates) of this Act for the remainder of the term for which it was given.

Section 170 Existing registered and provisionally registered schools

This section provides for schools that are already registered or provisionally registered under the former education Act.

(1) A school that is provisionally registered under section 22 of the former education Act immediately before commencement is taken, after commencement day, to be provisionally registered under section 86 of this Act for the education levels for which it was provisionally registered immediately before the commencement day and for the remainder of the period for which it was provisionally registered.

(2) A school registered under section 23 of the former education Act immediately before commencement is taken, after the commencement day, to be a school registered under section 88 of this act for the educational level for which it was registered immediately before the commencement day and for the remainder of the period for which it was registered.

(3) A certificate issued under section 22 of the former education Act that was in force immediately before commencement is taken, after the commencement day, to be a certificate issued under section 86(4) (Provisional registration) of this Act.

(4) A certificate issued under section 23 of the former education Act that was in force immediately before commencement is taken, after the commencement day, to be a certificate issued under section 88(4)(b) (Registration) of this Act.

Section 171 Registers

This section continues the legal validity of registers of attendance under this Act of any school kept under the former *Education Act 1937*.

It also provides for the continued legal validity under this Act of any register of all non government schools kept under the former *Education Act 1937*.

(1) A register of attendances is to be kept under the former *Education Act 1937*, section 15 to be taken, after the commencement, to be a register of enrolments and attendances under section 33 (Keeping records of enrolment and attendances for government schools) or section 99 (Keeping records of enrolment and attendances for non government school) of this Act.

(2) A list of registered primary schools and a list of registered secondary schools are to be kept under the former *Education Act 1937*, section 28 to be taken, after the commencement, to be a register of non-government schools kept by the registrar under section 79 (Register of non-government schools) of this Act.

Part 7.3 Miscellaneous

Section 172 Expiry of ch 7

States that Chapter 7 expires 1 year after it commences.

Section 173 Declared law for Legislation Act 2001, s 88

States that Chapter 7 is a law to which the *Legislation Act 2001*, section 88 (Repeal does not end effect of transitional laws etc) applies.

CHAPTER 8 REPEALS AND CONSEQUENTIAL AMENDMENTS

Section 174 Acts repealed

This Section repeals the legislation that is replaced by this Act.

States that the following Acts are repealed:

Education Act 1937 A1937-25

Free Education Act 1906 A1906-12

Public Instruction Act 1880 A1880-23

Schools Authority Act 1976 A1976-59

Section 175 Regulations repealed

This section repeals the *Schools Authority Regulations 1978* SL1978-11.

Section 176 Legislation amended – sch 2

States that Schedule 2 amends the Acts and regulations mentioned in that schedule.

SCHEDULE 1 REVIEWABLE DECISIONS

Part 1.1 Minister's decisions

Contains a table (next page) that sets out who is to be notified about a reviewable decision made by the Minister, as follows.

- 1 In section 84(4) Applications for in principle approval, the applicant for in principle approval of a proposed new non government school or for additional educational levels at an existing non government school must be notified of a decision refusing pre application approval,
- 2 In section 86(5) Provisional registration, the applicant for provisional registration of a non government school must be notified of a decision directing the registrar to refuse to provisionally register the non government school,
- 3 In section 88(3) Registration, the proprietor of a non government seeking registration of a non government school must be notified of a decision directing the registrar to register a no government school for a shorter period than the period applied for.
- 4 In section 88 (5) Registration, the proprietor of a non government seeking registration of a non government school must be notified of a decision directing the registrar to refuse to register the non government school,
- 5 In section 90 (6) Registration at additional educational levels, the proprietor of a non government school seeking registration of a non government school at additional educational levels must be notified of a decision directing the registrar to refuse to register the non government school at additional educational levels,
- 6 In section 95 (1) Cancellation of provisional registration or registration, the proprietor of the non government school must be notified of a decision directing the registrar to cancel provisional registration or registration of the non government school,
- 7 In section 97 (3) Renewal of registration, the proprietor of a non government school must be notified of a decision directing the registrar to renew the registration of a non government school for less than the period applied for.
- 8 In section 97 (5) Renewal of registration, the proprietor of the non government school must be notified of a decision directing the registrar not to renew registration of the non government school.

Part 1.1 Table - Minister's decisions

Column 1	Column 2	Column 3	Column 4
Item	Act provision	Reviewable decision	Person to be notified
1	84 (4) Deciding in principle applications	refusing to give in principle approval	applicant for in principle approval
2	86(5) Provisional registration	directing registrar to refuse to provisionally register a non government school	applicant for provisional registration of the school
3	88 (3) Registration	directing registrar to register a non government school for a shorter period than the period applied for	proprietor of the school
4	88 (5) Registration	directing registrar to refuse to register a non government school	proprietor of the school
5	90 (6) Registration at additional educational levels	directing registrar to refuse to register a non government school at an additional educational level	proprietor of the school
6	95 (1) Cancellation of provisional registration or registration	directing registrar to cancel provisional registration or registration of a non government school	proprietor of the school
7	97 (3) Renewal of registration	Directing registrar to renew registration of a non government school for less than the period applied for	proprietor of the school
8	97 (5) Renewal of registration	directing registrar to refuse to renew registration of a non Government school	proprietor of the school.

Part 1.2 Chief executive's decisions

Contains a table (next page) that sets out who is to be notified about a reviewable decision made by the Minister, as follows.

- 1 In section 14 Exemption certificates, the parents of the child applying for an exemption certificate must be notified of a decision refusing to issue the exemption certificate on application.
- 2 In section 16 Revocation of exemption certificates, the parents of the child must be notified of a decision revoking an exemption certificate.
- 3 In section 36 Suspension, exclusion or transfer of child by chief executive, the parents of the child must be notified of a decision suspending, excluding or transferring the child.
- 4 In section 130 (3) Registration for home education, the parents of the child must be notified of a decision refusing to register a child for home education on application.
- 5 In section 130 (3) Registration for home education, the parents of the child must be notified of a decision registering the child for home education for a shorter period than the period applied for.
- 6 In section 134 (1) Cancellation of registration for home education, parents of the child must be notified of a decision cancelling registration of the child for home education.
- 7 In section 136 (3) Renewal of registration for home education, parents of the child must be notified of a decision refusing to renew the registration of the child for home education.
- 8 In section 136 (3) Renewal of registration for home education, the parents of the child must be notified of a decision renewing the registration of the child for home education for a shorter period than the period applied for.

Part 1.2 Table - Chief executive's decisions

Column 1 Item	Column 2 Act provision	Column 3 Reviewable decision	Column 4 Person to be notified
1	14 Exemption certificates	refusing to issue exemption certificate on application	parents of the child
2	16 Revocation of exemption certificate	revoking an exemption certificate	parents of the child
3	36 Suspension, exclusion or transfer of child by chief executive	suspending, excluding or transferring a child	parents of the child
4	130(3) Registration for home education	refusing to register a child for home-education on application	parents of the child
5	130(3) Registration for home education	registering a child for home education for a shorter period than the period applied for	parents of the child
6	134 (1) Cancellation of registration for home education	cancelling registration of a child for home education	parents of the child
7	136 (3) Renewal of registration for home education	refusing to renew registration of a child for home education	parents of the child
8	136 (3) Renewal of registration for home education	renewing registration of a child for home education for a shorter period than the period applied for	parents of the child

SCHEDULE 2 CONSEQUENTIAL AMENDMENTS

Part 2.1 Board of Senior Secondary Studies Act 1997

[2.1] States that a new **Division 3.3** on Education providers be inserted.

Section 27A (Approved education providers). The board may approve education providers for this Act, and the board must keep an up-to-date list of approved education providers.

Section 27B (Criteria for approval). The board may approve a person as an education provider only if satisfied that the following criteria (the approval criteria) are met:

- (a) the provider will have appropriate facilities and equipment for the safety and welfare of its students; and
- (b) the nature and content of the education to be offered by the provider will be satisfactory for the educational levels for which approval as a provider is sought; and
- (c) the teaching staff will be efficient and effective; and
- (d) the institution operated by the provider will be conducted in a satisfactory way; and
- (e) the disciplinary policy of the provider will not allow corporal punishment.

Section 27C (Suspension of approval). The board may suspend the approval of an education provider if the board is no longer satisfied, based on reasonable grounds, that the provider meets the approval criteria.

Section 27D (Cancellation of approval). The board must cancel the approval of an educational provider if, on at least 3 occasions, a ground existed on which the board would have been entitled to suspend the approval of the provider.

Section 27E (Notice of decisions). The board must give written notice for a decision refusing to approve an application for approval of an education provider under section 27A – to the applicant; and for a decision suspending or cancelling approval of an education provider under section 27C or 27D – to the education provider. The notice must be in accordance with the requirements of the code of practice under the *Administrative Appeals Tribunal Act 1989*, section 25B(1).

Section 27F (Review of decisions by administrative appeals tribunal of certain). A person may apply in writing to the administrative appeals tribunal for review of a decision of the board mentioned in section 27E.

Part 2.2 Children and Young People Act 1999

[2.2] States that in **Section 330 (e) and (f)**, the following is substituted:

"(e) by a government school or non government school under the *Education Act 2003*, whether provided during or outside school hours; or".

[2.3] States that in **Section 330** the paragraphs should be renumbered when the Act is next republished under the *Legislation Act 2001*.

[2.4] States that in **Section 373 (a)** the following is substituted:

"(a) contravenes the *Education Act 2003* in relation to the young child; or".

[2.5] States that in **Section 378** the following is substituted:

"378 Ch 10 subject to certain provisions of Education Act

This chapter has effect subject to the *Education Act 2003*, section 11 (Compulsory attendance) and section 14 (Exemption certificates)."

[2.6] States that in the **Dictionary**, the following is substituted for the definition of ***school***:

"***school*** means:

(a) a government or non government school under the *Education Act 2003*; or

(b) an educational institution conducted by the Canberra Institute of Technology."

[2.7] States that in the **Dictionary**, definition of ***school-leaving age***, the following is substituted:

"***school-leaving age*** means 15 years old".

Part 2.3 Crimes Act 1900

[2.8] Dictionary, definition of school, substitute:

school means a government school or non government school under the *Education Act 2003* or

(b) an educational institution conducted by the Canberra Institute of Technology."

and includes any land or premises that belong to, are occupied by, or used in relation to, a school.

Part 2.4 Intoxicated Persons (Care and Protection Act) 1994

[2.9] States that in **Section 3 (1)**, definition of school, the following is substituted:

"**school** means a government school or non government school under the *Education Act 2003* and includes any land or premises which belong to or are occupied or are used in relation to, a school."

Part 2.5 Legislation Act 2001

[2.10] States that in Schedule 1, Part 1.1 items about the *Free Education Act 1906* and *Public Instruction Act 1880* are to be omitted.

[2.11] requires that items of Schedule 1. Part 1.1 be renumbered when the Act is next republished under the *Legislation Act 2001*.

Part 2.6 Ombudsman Regulations 1989

[2.12] States that in Schedule 2, item 2 is omitted.

Part 2.7 Workers Compensation Act 1951

[2.13] States that in Section 14 (4), definition of an educational institution, paragraph (b) the following is substituted:

"(b) a non government school under the *Education Act 2003*; or"

DICTIONARY

States the meaning of terms used in the Act.

Endnote

States that the latest republication of amended laws is available at the website <http://www.legislation.act.gov.au>