

Australian Capital Territory

# Education (Constitution of School Boards of School-Related Institutions and Other Schools in Special Circumstances) Determination 2004 (No 1)

Disallowable instrument DI2004– 247

made under the

Education Act 2004 section 43

## EXPLANATORY STATEMENT

---

### Aim and Purpose

This instrument aims to set in place the constitution of school boards of school-related institutions and other schools in special circumstances as required under section 43 of the *Education Act 2004* (the Act). ‘Constitution’ in this circumstance means the composition of the board rather than the rules governing the running of meetings. This meaning is consistent with the use of the word in the Act and has been confirmed by the Government Solicitors’ Office.

### Background

The *Education Act 2004* was passed by the Legislative Assembly in March of this year. The Department of Education and Training is now preparing to implement the Act in time for its commencement date of 1 January 2005.

Part 3.4 of the Act deals with school boards of government schools. Provision is made for the establishment of school boards and the constitutions of school boards in this part.

There are three distinct types of constitutions described in the Act. These are:

1. School boards generally
2. School boards of small schools
3. School boards of school-related institutions and schools in special circumstances

The Act clearly sets out the constitutions for school boards generally and school boards of small schools. However, in the case of the constitutions of school boards of school-related institutions and schools in special circumstances, the Act, whilst outlining general principles, does not provide any guidance on composition of the school board or election or appointment eligibility.

Rather, the Act defers to the *Legislation Act 2001* for the appointment of board members and requires the chief executive to make determinations for the school or schools identified. The determinations include whether to appoint a single school board convened for two or more institutions; the composition of the board and the voting rights of members.

Determinations by the chief executive on these matters may only be made with the express written approval of the Minister under section 43 (6) of the Act.

Currently the Hindmarsh Education Centre at Quamby operates a school advisory board. Hindmarsh Education Centre is classed as a school-related institution. Under the Act, the chief executive will be required to make a determination relating to the school board of this institution.

Similarly, Birrigai presently operates an advisory board, however, under the Education Act, the facility is classed as a school in special circumstances. Therefore a school board will need to be established in 2005 under section 43 of the Act.

In order that these new school boards are operational by the beginning of 2005, the constitutions of school-related institutions and schools in special circumstances will need to be notified on the Legislation Register and tabled in the Assembly as a disallowable instrument.

When recommendations for appointments to the boards are made, they will be notified in the Assembly in accordance with the Legislation Act.