

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

EDUCATION AMENDMENT BILL 2006

EXPLANATORY STATEMENT

**Circulated by Authority of
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Minister for Education and Training**

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Overview of the Bill

The purpose of the amendments to the *Education Act 2004* is to clarify the intent of the legislation where misinterpretations have occurred, or address issues surrounding wording which have caused difficulties; to address compatibility issues that exist between several sections of the Act and ensure that the Act is more comprehensible and easier to use.

Details of the Bill

Amendment 1 Names the Act as the *Education Amendment Act 2006*.

Amendment 2 Provides the commencement provisions, noting that this Act will commence on the day after its notification day.

Amendment 3 Declares that it is the *Education Act 2004* that is being amended.

Amendment 4 Amends the principles to ensure that all young people in the ACT, whether they attend a school or are educated at home, have the right to receive a high quality education.

Amendment 5 Amends the principle to include students who are outside the definition of compulsory 'school-age'.

Amendment 6 Amends the object of the Act whereby the responsibilities of parents and the government are stated in relation to education, which includes home education and non-government schooling, not simply school education.

Amendment 7 Amends the object of the Act so that compulsory education is promoted (which includes home education), not simply compulsory school education.

Amendment 8 Relocates this provision on seeking advice from the Government Schools Education Council to division 3.5.3 where other provisions to the Council are contained.

Amendment 9 Amends the provisions on free education enabling the Minister to determine guidelines about charges for activities, services and facilities provided in relation to government schools. This will allow schools to charge parents only for some specific activities, services and facilities (such as overseas excursions and canteen facilities) that they want their child to use at, or in relation to, a government school. Students will continue to be entitled to free access to government school facilities to meet curriculum requirements and will have access to the school curriculum regardless of their capacity to pay.

The determination of the guidelines will be a disallowable instrument. While it is unusual to use subordinate legislation to modify primary legislation, the amendment seeks to reflect the principle of free education in general, but also to allow schools to offer some activities, services and facilities that are paid for by a student's parents. These activities, services and facilities would be determined in the guidelines issued by the Minister. Making the instrument disallowable provides for additional scrutiny of what is contained in the guidelines.

Amendment 10 Amends the prescribed period for appointment of a member of a school board (other than the principal), to 1 April, thereby allowing schools more time to run an election process at the start of the school year.

Amendment 11 Amends the end of the prescribed period of appointment for a member of a school board (other than the principal) to align with the revised election timeframe.

Amendment 12 Amends inaccurate cross-references.

Amendment 13 Amends inaccurate cross-references.

Amendment 14 Substitutes the word 'constitution' with 'composition', thereby avoiding the current misinterpretation of 'constitution' as meaning a school board's business rules, rather than the intended meaning being its membership.

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Amendment 20 Substitutes the word 'constitution' with 'composition', thereby avoiding the current misinterpretation of 'constitution' as meaning a school board's business rules, rather than the intended meaning being its membership.

Amendment 21 Amends the note to refer to a new subsection.

Amendment 22 Creates a new division 3.5.3 that coalesces other provisions relating to the Government Schools Education Council besides its establishment, membership and proceedings.

Amendment 23 Deletes a section relating to annual reporting of the Government Schools Education Council. As the Council is declared a Public Authority, for the purposes of the *Annual Reports (Government Agencies) Act 2004*, it is subject to reporting obligations under that Act. This section, in effect, duplicates the requirement to provide an annual report and is therefore redundant.

Amendment 24 Deletes division 3.6.3 as the sections within this division are relocated to other divisions within the Act.

Amendment 25 Relocates the section dealing with protection of members of school boards to division 3.4.3 that deals with provisions on the proceedings of school boards.

Amendment 26 Relocates the section dealing with the presentation of advice from the Government Schools Education Council to the new division 3.5.3.

Amendment 27 Relocates this provision on seeking advice from the Non-government Schools Education Council to new division 4.4.3 where other provisions relating to the Council are contained.

Amendment 28 Allows inspection of the register during business hours. Inspection of the register will be without charge, but reasonable copying costs may be requested for a copy of all or part of the register. These provisions were previously contained within division 4.5.3 which has been deleted following relocation of the sections contained within it to other areas of the *Education Act 2004*.

Amendment 29 Removes confusion surrounding the length of the period operators of a non-government school have in between applying for in-principle approval and provisional registration. The minimum time frame from applying for in-principle approval to the opening of a new non-government school is two years. The maximum timeframe is four years.

Amendment 30 Includes within the section heading the fact that the section deals also with the transfer of students within Catholic systemic schools. The heading also better uses 'student' instead of 'child'.

Amendment 31 Amends the note to refer to revised subsections.

Amendment 32 Creates a new division 4.4.3 that coalesces other provisions relating to the Non-government Schools Education Council besides its establishment, membership and proceedings.

Amendment 33 Deletes a section relating to annual reporting of the Non-government Schools Education Council. As the Council is declared a Public Authority, for the purposes of the *Annual Reports (Government Agencies) Act 2004*, it is subject to reporting obligations under that Act. This section, in effect, duplicates the requirement to provide an annual report and is therefore redundant.

Amendment 34 Removes division 4.5.3 as provisions that were previously contained within this division have been relocated to other sections.

Amendment 35 Deletes section 126 as the content of this section has been moved to revised section 79.

Amendment 36 Relocates the section to new division 4.4.3 where other provisions relating to the Non-government Schools Education Council are contained.

Amendment 37 Introduces a more simplified process for the provisional registration of home educated children. Previously, applications were required for both provisional registration and full registration. Parents of a child now apply to the Chief Executive only once for registration of a child. Provisional registration ends six months after the day provisional registration begins, or when the child is registered under the subsequent section.

Amendment 38 Removes the need for an additional application (after the application for provisional registration) for full registration of a child for home education.

Amendment 39 Removes the indicator of a subsection as the newly amended section only has one subsection.

Amendment 40 Deletes subsection as this information (concerning inclusion on the certificate of registration the period for which the child is registered for home education) is already contained within the *Education Act 2004*.

Amendment 41 Substitutes the word 'constitution' with 'composition', thereby avoiding the current misinterpretation of 'constitution' as meaning a school board's business rules, rather than the intended meaning being its membership.

Amendment 42 Amends the nature of a reviewable decision. As the process for registration has been amended so a period of time is no longer applied for by parents of a home educated child, the request for a review of a decision is now triggered because the child has been registered for less than two years.

Amendment 43 Substitutes the word 'constitution' with 'composition', thereby avoiding the current misinterpretation of 'constitution' as meaning a school board's business rules, rather than the intended meaning being its membership.

Amendment 44 Replaces one cross reference with another due to amendments to section 83.

Amendment 45 Substitutes the word 'constitution' with 'composition', thereby avoiding the current misinterpretation of 'constitution' as meaning a school board's business rules, rather than the intended meaning being its membership.

Amendment 46 Ensures a more consistent use of the word 'child' and 'student'. The use of the word 'child' (defined as under 18 years old in the *Children and Young People Act 1999*) instead of 'student' in the Act has meant that any students older than 18 are not provided for under some sections of the Act.

Amendment 47 Amends the *Education Regulation 2005* by changing a section number.