Western Australia

School Education Act 1999

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Defined terms

Western Australia

School Education Act 1999

An Act to make provision —

- **for education in school or by home education with education, training and employment alternatives at the senior secondary level; and**
- **for the establishment and operation of government schools and for parent and community involvement in school affairs; and**
- **for the registration of non-government schools and the funding of such schools; and**
- **for the registration of community kindergartens; and**
- **for the establishment and administration of student residential colleges; and**
- **for the use of property that is vested in the Minister; and**

to repeal the *Education Act 1928* and consequentially amend certain other Acts [1], and to make related provisions.

[Long title amended: No. 22 of 2005 s. 14; No. 28 of 2014 s. 22; No 41 of 2016 s. 6.]

Part 1 — Preliminary

What this Part is about

This Part provides for some matters that are relevant to the Act generally.

In particular it deals with —

- the commencement of the Act on a day, or of different provisions on different days, fixed by proclamation (section 2);
- the objects of the Act (section 3);
- the definition of terms used in the Act (section 4) (but where a definition only applies to a particular Part, Division, Subdivision, Schedule or section, it is placed in that Part, Division, Subdivision, Schedule or section);
- the meanings of some terms used in the Act which, because of their length, are better placed in separate sections (sections 5, 6 and 7);
- the status of notes in the Act (section 8).

1. Short title

This Act may be cited as the *School Education Act 1999*.

2. Commencement

The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

3. Objects of Act

(1) The objects of this Act include the following —

(a) to recognize the right of every child in the State to receive a school education during the child's compulsory education period; and

(b) to allow that education to be given in a government school, a non-government school or at home; and

(c) to provide for government schools that meet the educational needs of all children; and

(ca) to provide for education, training and employment alternatives at the senior secondary level; and

(d) to acknowledge the importance of the involvement and participation of a child's parents in the child's education; and

(e) to provide for student residential colleges that offer residential accommodation for students to attend, and participate in an educational programme of, a school.

(2) Any person who has a function under this Act is to seek to ensure that the objects stated in subsection (1) are achieved.

[Section 3 amended: No. 22 of 2005 s. 15; No. 41 of 2016 s. 7; No. 14 of 2019 s. 14.]

4. Terms used

In this Act, unless the contrary intention appears —

apprentice means an apprentice under a training contract registered under the *Vocational Education and Training Act 1996* Part 7 Division 2;

chief executive officer —

(a) in Part 4, has the meaning given by section 151; and

(b) otherwise has the meaning given by section 229;

child means a person who has not reached the age of 18;

child of compulsory school age means a child who under section 9(1) is required to be enrolled in an educational programme and includes a child to whom section 10(2) applies;

compulsory education period has the meaning given by section 6;

Council, in relation to a government school, means the Council established under section 125 for the school;

department—

(a) in Part 4, means the department of the Public Service principally assisting the Minister in the administration of that Part; and

(b) otherwise has the meaning given by section 228;

disability means a condition —

(a) which is attributable to an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment or a combination of those impairments; and

(b) which is permanent or likely to be permanent; and

(c) which may or may not be of a chronic or episodic nature; and

(d) which results in —

(i) a substantially reduced capacity of a person for communication, social interaction, learning or mobility; and

(ii) the need for continuing support services;

early education period for a child means the period before the child's pre-compulsory education period;

educational programme means an organized set of learning activities designed to enable a student, or a child enrolled at a community kindergarten, to develop knowledge, understanding, skills and attitudes relevant to the student's or child's individual needs;

final years of compulsory education for a child means the final 2 years of the compulsory education period for the child;

General Purposes Fund, in relation to a school, means the fund referred to in section 109;

government school means a school established under section 55;

intake area for a government school means the area defined under section 60(1)(b) for that school;

local-intake school means a school to which a declaration under section 60(1) applies;

non-government school means a school registered under section 160;

parent, in relation to a child, means a person who at law has responsibility —

(a) for the long-term care, welfare and development of the child; or

(b) for the day to day care, welfare and development of the child,

except in sections 9(2), 10(1)(b), 25, 27, 38(1) and Division 6 of Part 2 where it has only the meaning given by paragraph (b);

pre-compulsory education period has the meaning given by section 5;

principal —

(a) in relation to a non-government school, means the person who is in charge of the school; and

(b) in relation to a government school, has the meaning given by section 62;

regulations means regulations under section 244;

school means a government school or a non-government school;

school fund means the General Purposes Fund and a fund referred to in section 110;

school year, in relation to a government school, means the school year determined by order under section 117;

student means a person who is enrolled at a school;

student residential college has the meaning given in section 213A;

teacher, in relation to a government school, means a member of the teaching staff;

teaching staff means persons appointed as such under section 236(2).

[Section 4 amended: No. 22 of 2005 s. 5 and 16; No. 44 of 2008 s. 61(2); No. 11 of 2012 s. 37; No. 46 of 2012 s. 4; No. 41 of 2016 s. 8.]

5. Term used: pre-compulsory education period

The pre-compulsory education period for a child is as follows —

(a) until 31 December 2012 —

(i) from the beginning of the year in which the child reaches the age of 4 years and 6 months; and

(ii) until the end of the year in which the child reaches the age of 5 years and 6 months;

(b) from 1 January 2013 —

(i) from the beginning of the year in which the child reaches the age of 4 years and 6 months; and

(ii) until the end of that year.

[Section 5 inserted: No. 46 of 2012 s. 5.]

6. Term used: compulsory education period

(1) The compulsory education period for a child is as follows —

(a) until 31 December 2012 —

(i) from the beginning of the year in which the child reaches the age of 6 years and 6 months; and

(ii) until the end of the year in which the child reaches the age of 17;

(b) from 1 January 2013 until 31 December 2013 —

(i) from the beginning of the year in which the child reaches the age of 5 years and 6 months; and

(ii) until the end of the year in which the child reaches the age of 17;

(c) from 1 January 2014 —

(i) from the beginning of the year in which the child reaches the age of 5 years and 6 months; and

(ii) until —

(I) the end of the year in which the child reaches the age of 17 years and 6 months; or

(II) the child reaches the age of 18,

whichever happens first.

(2) If a child satisfies the minimum requirements for graduation from secondary school established under the *School Curriculum and Standards Authority Act 1997* before the end of the compulsory education period under subsection (1), this Act applies in respect of the child as if the compulsory education period for the child ended when the requirements were satisfied.

[Section 6 inserted: No. 46 of 2012 s. 5.]

*[**7.** Deleted: No. 22 of 2005 s. 6.]*

8. Notes not part of Act

Notes in this Act are provided to assist understanding and do not form part of the Act.

Part 2 — Education of children during compulsory education period

[Heading inserted: No. 41 of 2016 s. 9.]

What this Part is about

This Part deals with —

- the compulsory enrolment of all children in an educational programme (Division 1);
- procedures for the enrolment of children at a government or non-government school (Division 2);
- attendance requirements for students enrolled at a government or a non-government school (Division 3);
- the absence of students from government schools for a religious or cultural observance (Division 4);
- absenteeism in relation to both government and non-government schools (Division 5);
- the provision of education by parents to their children in the home (Division 6).

Division 1 — Compulsory education with alternatives in final years of compulsory education

[Heading inserted: No. 46 of 2012 s. 6.]

Subdivision 1 — Enrolment of children of compulsory school age

9. When enrolment compulsory

(1) A child is to be enrolled in an educational programme for each year of the compulsory education period for that child.

(1a) Subsection (1) has effect subject to sections 11F(2) and 11H(5) and (6).

Note for this subsection:

The effect of the provisions mentioned in subsection (1a) is that if a child in either of the final years of compulsory education is, in accordance with Subdivision 1A, participating in an option or in options under that Subdivision and the required notice has been given and remains in force, the child does not have to be enrolled or to be provided with home education under section 9.

(2) A parent of a child must ensure that subsection (1) is complied with.

Penalty: a fine of $2 500.

(3) A prosecution for an offence against subsection (2) is not to be commenced against a parent unless the chief executive officer has given a certificate to the effect that reasonably practicable steps have been taken to secure compliance with subsection (1) by the parent.

(4) Where in any proceedings a document is produced purporting to be a certificate given under subsection (3) the court is to presume, unless the contrary is shown, that the document is such a certificate.

[Section 9 amended: No. 84 of 2004 s. 80; No. 22 of 2005 s. 18; No. 28 of 2014 s. 23 and 35.]

10. Ways in which s. 9 satisfied

(1) The duty imposed by section 9 is satisfied in respect of a child by —

(a) the enrolment of the child at a school; or

(b) the registration under section 48 of a parent as the child's home educator and the continuation in effect of that registration.

(2) The reference to enrolment in subsection (1)(a) includes enrolment of a child in either of the final years of compulsory education for part-time studies if the extent of those studies when taken with an option or options under section 11B will meet the requirements of section 11C and regulations made for the purposes of that section.

[Section 10 amended: No. 22 of 2005 s. 19; No. 46 of 2012 s. 7.]

11AA. Proof of enrolment to be provided

(1) If the chief executive officer is of the opinion that section 9(1) is not being complied with in respect of a child to whom it applies, then the chief executive officer, by notice in writing to a parent of the child, may request the parent to provide —

(a) proof that the child is enrolled in a school for the current year; or

(b) proof that a parent of the child is currently registered under section 48 as the child's home educator.

(2) A parent to whom notice is given under subsection (1) must provide the chief executive officer with the proof requested —

(a) in writing; and

(b) within the time specified in the notice.

Penalty: a fine of $2 500.

[Section 11AA inserted: No. 28 of 2014 s. 24.]

11. Exemption from s. 9(1), Minister may grant etc.

(1) The Minister may by instrument —

(a) exempt a child from section 9(1) if the Minister is satisfied that it is in the best interests of the child to do so; and

(b) at any time revoke an exemption.

(2) Section 9(1) does not apply to a child who is exempted by the Minister under subsection (1) if the conditions of the exemption are being complied with.

(3) An exemption may be limited in its operation to a specified period.

(4) The Minister may —

(a) make the exemption subject to any condition; and

(b) impose any further condition or vary or revoke a condition at any time.

(5) Without limiting the Minister's ability to obtain advice or information, he or she may obtain advice from an advisory panel under section 241 for the purposes of any decision required to be made under this section.

(6) In the case of children enrolled at non-government schools, the Minister may by instrument delegate the powers conferred on him or her by this section to the chief executive officer referred to in section 151.

Subdivision 1A — Alternatives to the operation of section 9 in final years of compulsory education

[Heading inserted: No. 46 of 2012 s. 8.]

11A. Terms used

(1) In this Subdivision —

course includes a programme or activity;

parent, in relation to a child, means —

(a) a person who at law has responsibility for the long-term care, welfare and development of the child; or

(b) a person who at law has responsibility for the day-to-day care, welfare and development of the child; or

(c) if, in the opinion of the Minister, there is no person to whom paragraph (a) or (b) applies who is reasonably available at the relevant time, an adult person who is responsible for the child;

participate has the meaning provided for by section 11J and regulations made for the purposes of that section;

provider has the meaning given to that term in subsection (2).

(2) In this Subdivision —

provider, in relation to a person who comes within a description in the first column of the Table to this definition, means a person or body specified in the second column of the Table opposite that description.

Table

1.	A student undertaking a course of study at a university.	The university.
2.	A student undertaking a higher education course registered under section 23 of the *Higher Education Act 2004*.	The education institution that provides the course.
3.	A student undertaking an approved VET course within the meaning given to that term by the *Vocational Education and Training Act 1996* section 5(1).	The registered training provider (within the meaning given to that term by that Act section 5(1)), or a person referred to in section 58A(2) of that Act, who provides the course.
4.	An apprentice.	The employer.
5.	A student undertaking a course prescribed by order made under section 11B(2).	The provider specified in the order in respect of the course.

[Section 11A inserted: No. 22 of 2005 s. 20; amended: No. 44 of 2008 s. 61(3).]

11B. Options other than school etc. in final 2 years

(1) In the final years of compulsory education a child may, despite section 9(1), participate in one or more of the following options —

(a) undertaking —

(i) a course of study provided by a university established under a written law or under a law of another State, or of a Territory, of the Commonwealth; or

(ii) a higher education course registered under section 23 of the *Higher Education Act 2004*;

or

(b) undertaking an approved VET course within the meaning given to that term by the *Vocational Education and Training Act 1996* section 5(1); or

(c) being an apprentice; or

(d) being employed under a contract of employment otherwise than in a capacity mentioned in paragraph (c), but subject to approval being in force under section 11G; or

(e) undertaking a course prescribed under subsection (2).

(2) The Minister may, by order published in the *Gazette*, prescribe —

(a) a course; or

(b) a class or description of courses,

that does not otherwise come within subsection (1), to be an option for the purposes of that subsection.

(3) An order under subsection (2) is to specify for a course the person or body that is the provider of the course.

(4) An order under subsection (2) is subsidiary legislation for the purposes of the *Interpretation Act 1984*.

[Section 11B inserted: No. 22 of 2005 s. 20; amended: No. 44 of 2008 s. 61(4); No. 46 of 2012 s. 9.]

11C. Participation s. 11B option to be full-time

(1) Participation in an option, or a combination of options, provided for by section 11B(1) must be on a full-time basis.

(2) The regulations may make provision for —

(a) circumstances and arrangements that are to be taken to comply with the requirements of subsection (1); and

(b) rules or criteria that are to be taken into account in determining whether arrangements and circumstances so comply.

(3) Enrolment of a child as mentioned in section 10(2) is to be treated for the purposes of this section as if it were an option provided for by section 11B(1).

[Section 11C inserted: No. 22 of 2005 s. 20.]

11D. Arrangements under s. 11B, parent to notify Minister of etc.

(1) Where a child —

(a) is enrolled in a course or a combination of courses; or

(b) becomes an apprentice as mentioned in section 11B(1),

a parent of the child must give notice to the Minister as soon as is practicable after the arrangements are made.

(2) A notice must include particulars of the arrangements made for the child.

(3) A parent of a child may, by further notice given to the Minister, cancel a notice given under subsection (1).

(4) Except as may be provided by the regulations, notice must be given to the Minister by a parent of the child concerned of —

(a) any variation of the arrangements notified under subsection (1); or

(b) if the arrangements relate to, or will as varied relate to, a combination of courses, any variation proposed to be made.

(5) If a child in respect of whom a notice has been given under this section ceases to be enrolled in a course or to be an apprentice as mentioned in section 11B(1), a parent of the child must give notice to the Minister of the cessation as soon as is practicable after it occurs.

(6) A notice under a provision of this section must be in a form approved by the Minister for the purposes of that provision.

(7) Subject to section 11E, a notice under this section comes into force when it is given to the Minister.

[Section 11D inserted: No. 22 of 2005 s. 20; amended: No. 44 of 2008 s. 61(5) and (6).]

11E. Child enrolled under s. 11B in combination of courses, application of s. 11D to

(1) This section applies to a notice under section 11D(1) relating to the enrolment of a child in a combination of courses.

(2) Such a notice must also include particulars of any enrolment of the child for part-time studies at a school.

(3) A notice to which this section applies does not come into force unless the Minister gives the parent concerned a formal written acknowledgment of the choice of courses to which the notice relates.

(4) Except as may be provided by the regulations, a proposed variation notified by a parent under section 11D(4)(b) is of no effect for the purposes of this Subdivision unless the Minister gives the parent a formal written acknowledgment of the proposal.

(5) The Minister is to give a formal written acknowledgment under subsection (3) or (4) if the Minister is satisfied that participation by the child concerned —

(a) in the combination of courses; or

(b) in the combination of courses as varied,

meets the requirements of section 11C and regulations made for the purposes of that section.

(6) In making a decision under subsection (5) the Minister is to take into account, where applicable —

(a) any enrolment of the child for part-time studies at a school; and

(b) any part-time employment approved under section 11G.

(7) The Minister may require the parent to give further information or documents to enable the Minister to make a decision under subsection (5).

(8) A notice to which this section applies comes into force when the Minister gives a formal written acknowledgment in respect of the notice.

[Section 11E inserted: No. 22 of 2005 s. 20.]

11F. Notice under s. 11D or 11E, duration and effect of

(1) A notice that comes into force under section 11D or 11E remains in force until —

(a) the child concerned ceases to participate, as required by section 11I, in the option or any of the options notified, including any variation that has taken effect and any option taken into account under section 11E(6); or

(b) the notice is cancelled; or

(c) the end of the compulsory education period of the child,

whichever happens first.

(2) While a notice is in force, section 9(1) does not apply to the child concerned.

[Section 11F inserted: No. 22 of 2005 s. 20.]

11G. Employment for s. 11B(1)(d), Minister's approval of required etc.

(1) A child is not to be employed as mentioned in section 11B(1)(d), whether or not the employment is in

combination with any other option, unless the approval of the Minister has been obtained under this section and remains in force.

(2) On application made by a parent of a child in a form approved by the Minister, the Minister may, by notice in writing to the applicant, give approval to the child being employed by a specified employer.

(3) If application is made for the approval of part-time employment, the Minister is to give approval only if the Minister is satisfied that the employment and participation in another option or other options chosen will meet the requirements of section 11C and regulations made for the purposes of that section.

(4) In making a decision under subsection (3) the Minister is to also take into account any enrolment of the child for part-time studies at a school.

(5) The Minister may —

(a) make an approval subject to any condition; and

(b) at any time by notice to a parent of the child concerned impose any further condition or vary or revoke a condition.

(6) The Minister may at any time by notice to a parent of the child concerned vary or revoke an approval.

(7) The Minister may exercise a power under subsection (5)(b) or (6) on application by a parent or on the Minister's own initiative.

[Section 11G inserted: No. 22 of 2005 s. 20.]

11H. Child employed with s. 11G approval, parent to notify Minister of etc.

(1) Where a child is employed in accordance with an approval under section 11G, a parent of the child must give notice to the Minister as soon as is practicable after the employment starts.

(2) If a child in respect of whom notice has been given under subsection (1) ceases to be employed in accordance with an approval under section 11G, a parent of the child must give notice to the Minister of the cessation as soon as is practicable after it occurs.

(3) A notice under subsection (1) or (2) must be in a form approved by the Minister for the purposes of that subsection.

(4) A notice duly given under subsection (1) remains in force until —

(a) the child concerned ceases to be employed in accordance with the relevant approval; or

(b) the relevant approval is revoked under section 11G(6); or

(c) the end of the compulsory education period of the child,

whichever happens first.

(5) Where the employment to which a notice under subsection (1) relates is full-time employment, section 9(1) does not apply to the child concerned while the notice is in force.

(6) Where the employment to which a notice under subsection (1) relates is part-time employment, section 9(1) does not apply to the child concerned so long as —

(a) that notice is in force; and

(b) there is also in force a notice under section 11D relating to the other option or options mentioned in section 11G(3); and

(c) the child is participating in any part-time studies at a school that were taken into account as mentioned in section 11G(4).

[Section 11H inserted: No. 22 of 2005 s. 20.]

11I. Child to participate in options notified under s. 11D, 11E or 11H

(1) Where a notice has been given under section 11D that a child has been enrolled in a course referred to in section 11B(1)(a), (b) or (e), the child is required to participate in the course.

(2) Where a notice has been given under section 11D or 11H that a child has become an apprentice or is employed, the child is required to —

(a) participate in the apprenticeship; or

(b) unless the Minister's approval is revoked under section 11G(6), participate in the employment.

(3) Where a notice to which section 11E applies has come into force in accordance with that section, the child concerned is required to participate in each of the courses to which the notice relates.

(4) This section does not apply to a child after the compulsory education period for the child has ended.

(5) Subsections (1), (2) and (3) apply subject to —

(a) any variation that has taken effect; and

(b) a notice of cancellation given by a parent.

Note for this section:

If a child stops participating in any of the arrangements made under this Subdivision or in part-time studies at a school, the notice of those arrangements ceases to be in force by operation of section 11F(1) or 11H(4); and, if that happens, section 9(1a) no longer applies and the child has to be enrolled at a school as a full-time student or provided with home education.

[Section 11I inserted: No. 22 of 2005 s. 20; amended: No. 44 of 2008 s. 61(7).]

11J. Participation by child, what constitutes

(1) A child is taken to be participating in a course for the purposes of this Subdivision if the child —

(a) is enrolled in the course with the relevant provider; and

(b) is complying with —

(i) the provider's requirements about physically attending, at particular times, the provider's premises or another place for the purposes of each such course; or

(ii) in the case of a course of distance education, the provider's requirements about completing and returning the assigned work for the course; or

(iii) in the case of any other external course, the provider's requirements about communicating with or contacting the provider for the purpose of participating in the course.

(2) For the purposes of this Subdivision, the fact of a child —

(a) being an apprentice; or

(b) being employed in accordance with an approval under section 11G,

is taken to be participation in the option mentioned in section 11B(1)(c)(i) or (ii) or (d), as the case may be.

(3) Participation is taken to continue, for the purposes of this Subdivision, during any absence allowed under the requirements, terms and conditions of the course, apprenticeship or employment concerned.

(4) Participation in a course, apprenticeship or employment is taken to continue, for the purposes of this Subdivision, during any period —

(a) when a child is subject to suspension or exclusion; or

(b) after a child has been dismissed by an employer,

but, where the child has been excluded or dismissed, this subsection only applies during the period reasonably required for the child to comply with section 9 or participate, as required

by section 11C and regulations made for the purposes of that section, in another option or other options provided for by section 11B.

(5) The regulations may make provision, not inconsistent with this section, for acts, matters and circumstances —

(a) that are to be taken to constitute participation for the purposes of this Subdivision; or

(b) that are to be taken not to interrupt such participation.

[Section 11J inserted: No. 22 of 2005 s. 20; amended: No. 44 of 2008 s. 61(8)-(10).]

11K. Notice etc. by parent under s. 11D, 11G and 11H, Minister's functions as to

(1) Where a parent —

(a) gives notice to the Minister under section 11D or 11H; or

(b) makes an application under section 11G,

in respect of a child, the Minister need not inquire —

(c) whether there is any other person who in relation to the child is within the definition of ***parent*** in section 11A(1); or

(d) if there is such a person, whether he or she concurs with the giving of the notice or the making of the application or the information included in the notice or application.

(2) The Minister may give to a parent a formal acknowledgment under section 11E or a notice under section 11G in respect of a child without being concerned —

(a) to inquire whether there is any other person who in relation to the child may be within the definition of ***parent*** in section 11A(1); or

(b) to give notice to another person whom he or she knows to be within that definition.

(3) The Minister may —

(a) require a person who gives a notice or makes an application referred to in subsection (1) to provide the Minister with evidence or information to satisfy the Minister that the person comes within the definition of ***parent*** in section 11A(1); and

(b) decline to deal with the notice or application unless the Minister is so satisfied.

(4) Nothing in this section affects the operation and enforcement of a Family Court order.

[Section 11K inserted: No. 22 of 2005 s. 20.]

11L. Independent child, designating child to be

(1) The Minister may designate a child to be an independent child for the purposes of this Subdivision if the Minister is satisfied that the child has the capacity to make his or her own decisions in relation to the provisions referred to in subsection (3).

(2) The Minister is not to designate a child under subsection (1) —

(a) without having taken into account —

(i) the existence or absence of a relationship between the child and a parent of the child; and

(ii) the nature of the relationship, if any;

and

(b) unless the Minister is satisfied that no working relationship exists between the child and a parent of the child.

(3) An independent child may, in relation to the child —

(a) give or cancel a notice under section 11D(1) or (3); or

(b) give notice of a variation or proposed variation under section 11D(4); or

(c) give notice of cessation under section 11D(5); or

(d) make an application under section 11G(2); or

(e) give notice of employment or cessation of employment under section 11H,

and the notice or application has effect as if it had been given or made by a parent of the child.

(4) If an independent child has made an application under section 11G(2) references in section 11G(5) and (6) to a parent are, subject to subsection (5), to be read as references to the child.

(5) A decision to designate a child as an independent child may be reviewed or revoked by the Minister at any time.

(6) This section does not apply to a child —

(a) who, before the commencement day, is a ward for the purposes of the *Child Welfare Act 1947* [2], whether or not the child is under the guardianship of the Director-General as defined in that Act; or

(b) for whom, after the commencement day, the CEO as defined in section 3 of the *Children and Community Services Act 2004* has parental responsibility under that Act.

(7) In subsection (6) —

commencement day means the day on which section 250 of the Act mentioned in subsection (6)(b) comes into operation.

[Section 11L inserted: No. 22 of 2005 s. 20.]

11M. Minister's functions as to this Subdivision

(1) The functions of the Minister include —

(a) monitoring, and carrying out planning in relation to, the operation and effectiveness of this Subdivision; and

(b) developing strategies to better provide for the education and training of children in the final years of compulsory education.

(2) The functions of the Minister also include —

(a) identifying those children in either of the final years of compulsory education who are not engaged full-time in education, training or employment as provided by this Act; and

(b) giving such children information about school education and the options that are available under section 11B(1); and

(c) encouraging and helping parents to assist in the carrying out of the functions mentioned in paragraphs (a) and (b).

(3) The Minister is to from time to time consult with, and take into account the views of —

(a) the Executive Director Catholic Education in Western Australia; and

(b) the Association of Independent Schools of Western Australia (Inc.),

on the carrying out of the functions mentioned in subsection (1) in relation to children who are enrolled at schools registered under section 160.

[Section 11M inserted: No. 22 of 2005 s. 20; amended: No. 46 of 2012 s. 10; No. 28 of 2014 s. 25.]

11N. Regulations for this Subdivision

The regulations may make provision for matters that are incidental or supplementary to those provided for by, or are expedient for the operation of, this Subdivision.

[Section 11N inserted: No. 22 of 2005 s. 20.]

Subdivision 2 — Inquiries to check compliance with sections 9 and 11I

[Heading amended: No. 22 of 2005 s. 22.]

12. Authorised persons, authorisation of

The Minister may authorise any person (an ***authorised person***) who comes within a class of employees referred to in section 235(1) who has the required expertise to perform this role to exercise the powers conferred by this Subdivision.

13. Authorised person, powers of

(1) An authorised person may —

(a) call at any premises used as a dwelling; and

(b) having produced the certificate provided to the authorised person under section 14, require any person on the premises appearing to be over the age of 18 to answer any relevant question, whether orally or in writing.

(2) A question is relevant only if it is reasonably connected with finding out whether there is living at the premises —

(a) any child of compulsory school age who is not enrolled in an educational programme; or

(b) any child in respect of whom notice has been given under section 11D or 11H and who is not complying with section 11I, as the case may be.

(3) A person to whom a requirement under subsection (1)(b) is directed must not —

(a) fail to comply with the requirement; or

(b) in purported compliance give any information that is false or misleading.

Penalty: a fine of $500.

[Section 13 amended: No. 22 of 2005 s. 23; No. 28 of 2014 s. 35.]

14. Authorised person, certificate of authorisation for

(1) The Minister is to provide to an authorised person a certificate stating that he or she is an authorised person for the purposes of this Subdivision.

(2) A certificate purporting to have been issued under this section is evidence in any proceedings that the person concerned is an authorised person.

15. Pretending to be authorised person, offence

A person who is not authorised under section 12 must not pretend to be an authorised person.

Penalty: a fine of $5 000.

[Section 15 amended: No. 50 of 2003 s. 94(2); No. 28 of 2014 s. 35.]

Division 2 — Enrolment, all schools

16. Information required when applying to enrol

(1A) In this section —

immunisation status has the meaning given in the *Public Health Act 2016* section 141A.

(1) A person who wishes to make an application for enrolment at a school is to provide the following information to the extent that he or she is asked to do so —

(a) the date of birth of the enrollee; and

(b) the names and usual place of residence of —

(i) the enrollee;

(ii) where the enrollee is a child —

(I) the parents; and

(II) any adult person, not being a parent, who is responsible for the child;

and

(c) where the enrollee is a child, details of any provision in force at law —

(i) for the long-term care, welfare and development of the child; or

(ii) for the day to day care, welfare and development of the child;

and

(d) where applicable, the name of the school at which the enrollee is enrolled or was last enrolled; and

(e) the country of citizenship of the enrollee and, where applicable, whether the enrollee has the right to reside in Australia; and

[(f) deleted]

(g) details of any condition of the enrollee that may call for special steps to be taken for the benefit or protection of the enrollee or other persons in the school; and

(h) any other information prescribed by the regulations.

(2) The principal may require documentary evidence to be provided in support of any information supplied by the applicant under subsection (1).

(3) A person who wishes to make an application for enrolment of a child at a school is to provide the immunisation status of the enrollee in accordance with the *Public Health Act 2016* section 141B.

[Section 16 amended: No. 14 of 2019 s. 15.]

17. Change of s. 16 particulars, principal to be notified of

(1) Where there is a change in —

(a) the place of residence of an enrollee; or

(b) the particulars referred to in section 16(1)(b), (c) or (g) or section 16(3) in respect of the enrollee,

notice of the change is to be given to the principal of the school at which the enrollee is enrolled —

(c) by a parent of the enrollee; or

(d) in the case of an enrollee who has turned 18 or who is a prescribed child, by the enrollee; or

(e) by a person whose details have been provided under section 16(1)(b)(ii)(II).

(2) A notification to a principal under subsection (1) may be given in any way that is determined by the principal to be acceptable, either generally or in a particular case.

[Section 17 amended: No. 1 of 2011 s. 8; No. 14 of 2019 s. 16.]

18. Child enrolment application by one parent, principal may act on

(1) Where a parent lodges a duly completed application for enrolment with a principal, the principal need not inquire —

(a) whether there is any other person who in relation to the child is within the definition of ***parent*** in section 4; or

(b) if there is such a person, whether he or she concurs with the lodging of the application or the information included in it.

(2) Nothing in this section affects the operation and enforcement of a Family Court order.

19. Enrolment register, principal's duties as to

A principal of a school must ensure that —

(a) a register is kept showing, in respect of all students enrolled at the school, the information prescribed by the regulations; and

(b) particulars recorded in the register are retained for the period prescribed by the regulations.

20. Cancelling enrolment, principal's powers as to

(1) The principal of a school may cancel the enrolment of an enrollee at the school if the principal is satisfied that —

(a) the enrolment was obtained by the giving of false or misleading information; or

(b) section 17 has not been complied with.

(2) A principal is not to cancel an enrolment under subsection (1) without first —

(a) giving notice of the proposed cancellation, and of the reasons for it —

(i) to each parent who is shown on the register referred to in section 19 and whose whereabouts are known or can be discovered by reasonable inquiry; or

(ii) in the case of an enrollee who has turned 18 or who is a prescribed child, to the enrollee; or

(iii) to a person whose details have been provided under section 16(1)(b)(ii)(II);

and

(b) giving him or her a reasonable opportunity to show why the enrolment should not be cancelled.

(3) Subject to subsection (2), the principal is to give written notice of the cancellation to the person notified under subsection (2)(a).

(4) The cancellation takes effect at such time as is specified in the notice given under subsection (3).

21. Removing child from school register, when allowed

(1) A principal of a school is not to remove from the register for the school the name of a child of compulsory school age unless —

(a) the principal believes on reasonable grounds that the child has enrolled in another school in this State or elsewhere; or

(b) the principal believes on reasonable grounds that the child is no longer resident in this State; or

(c) an exemption is granted under section 11 in respect of the child; or

(d) a parent of the child is registered under section 48 as the child's home educator; or

(e) the enrolment is cancelled under section 20 or 83; or

(f) the Minister has authorised the removal on the ground that inquiries to establish the whereabouts of the child have not been successful.

(2) In the case of children enrolled at non-government schools, the Minister may by instrument delegate the power of authorisation conferred by subsection (1)(f) to the chief executive officer referred to in section 151.

(3) A person who exercises a power of authorisation conferred by subsection (1)(f) in relation to a particular child is to take reasonably practicable steps to establish the child's whereabouts in each year of the child's compulsory education period.

Division 3 — Attendance, all schools

22. Term used: school

In sections 25, 27 and 29 —

school includes any place to which an arrangement under section 24 applies.

23. Attendance requirements

(1) A student must, for every year of the student's compulsory education period, on the days on which the school is open for instruction —

(a) either —

(i) attend the school at which the student is enrolled; or

(ii) otherwise participate in an educational programme of the school whether at the school or elsewhere,

as required by the principal; or

(b) comply with an arrangement under section 24.

(1a) A student who is enrolled as mentioned in section 10(2) may attend or participate for the purposes of subsection (1) or section 24 on a part-time basis, and the principal is to facilitate the student doing so.

(2) Subsection (1) has effect subject to —

(a) section 25 (which relates to non-attendance for reasonable cause); and

(b) section 27 (which relates to non-attendance for public health reasons); and

(c) section 30 (which allows non-attendance at a government school for a recognized religious or cultural observance).

(3) Subsection (1) is enforceable under Division 5.

[Section 23 amended: No. 22 of 2005 s. 24; No. 14 of 2019 s. 17.]

24. Attendance at place outside school, arrangement for etc.

(1) An arrangement in writing may be entered into for a student —

(a) to attend at some place other than the school at which he or she is enrolled; and

(b) there to participate in activities that are part of an educational programme of the school.

(2) An arrangement under subsection (1) in respect of a student is to be entered into between the principal and —

(a) any parent of the student who in the opinion of the principal should be a party to the arrangement; or

(b) in the case of a student who has turned 18 or who is a prescribed child, the student.

(3) An arrangement under subsection (1) —

(a) may provide for the student's attendance —

(i) for a particular period of the school year; or

(ii) during a particular period in each week of the school year or part of the school year;

and

(b) may be varied by the principal after consultation with the person with whom the arrangement is made; and

(c) may be terminated at any time by the principal.

(4) If the principal decides to terminate an arrangement under subsection (3)(c) he or she is to notify the person with whom the arrangement is made of that decision as soon as is practicable after it is made.

(5) In this section —

parent means —

(a) the parent or parents who completed the enrolment application for the student; and

(b) any other person who —

(i) according to that application; or

(ii) to the knowledge of the principal,

comes within the definition of ***parent*** in section 4 in relation to the student; and

(c) a person whose details have been provided under section 16(1)(b)(ii)(II).

25. When student excused from attendance

(1) In this section —

responsible person, in relation to a student, means —

(a) a parent of the student; or

(b) in the case of a student who has turned 18 or who is a prescribed child, the student; or

(c) a person whose details have been provided under section 16(1)(b)(ii)(II).

(2) A student is excused from attending at school, or from participating in an educational programme of the school, on any day —

(a) if the student is prevented from attending at school, or from participating in the educational programme by —

(i) temporary physical or mental incapacity; or

(ii) any other reasonable cause;

and

(b) if a responsible person has notified the principal of the cause of the student's non-attendance or non-participation —

(i) as soon as is practicable; and

(ii) in any case within 3 school days of the day on which the non-attendance started;

and

(c) where under paragraph (b) the incapacity of the student is given as the cause, if the responsible person provides the principal with a certificate in support from a registered medical practitioner if requested to do so by the principal.

(3) A notification to a principal under subsection (2)(b) may be given in any way that is determined by the principal to be acceptable, either generally or in a particular case.

(4) A student is excused from attending at school, or from participating in an educational programme of the school, on any day if —

(a) a parent of the student has applied, or intends to apply, to be registered under section 48 as the student's home educator; and

(b) the parent has notified the principal in writing of the application or intended application —

(i) as soon as is practicable; and

(ii) in any case within 3 school days of the day on which the non-attendance started.

26. Doubtful reasons given for child's non-attendance, principal may refer to Attendance Panel etc.

(1) This section applies where a principal is of the opinion that the reasons notified under section 25(2)(b) in respect of a child of compulsory school age have persistently —

(a) been not genuine; or

(b) not amounted to a sufficient cause for the purposes of that section.

(2) Where this section applies to a child —

(a) the principal may refer the child's case to an Attendance Panel under section 39; and

(b) a Panel may —

(i) inquire into the child's attendance record including the social, cultural, lingual, economic or geographic factors, or learning difficulties, that might be affecting the child's attendance record; and

(ii) give such advice and assistance to the child and to his or her parents as it thinks fit; and

(iii) do any of the things referred to in section 40(3) and (4) for those purposes;

and

(c) a Panel is to prepare a written report on the child's case setting out any advice or assistance given by the Panel and give a copy of the report to the school's principal and —

(i) to a parent of the child; or

(ii) if the child is a prescribed child, to the child; or

(iii) to a person whose details have been provided under section 16(1)(b)(ii)(II).

(3) Under subsection (2)(b)(ii), a Panel may advise that a responsible parenting agreement under the *Children and Community Services Act 2004* be entered into, and complied with, in respect of the child.

[Section 26 amended: No. 22 of 2005 s. 39(1); No. 28 of 2014 s. 26; No. 23 of 2015 s. 19.]

27. Non attendance of student may be required on public health grounds

(1A) In this section —

Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1).

(1B) The principal of a school must comply with a direction given by the Chief Health Officer under regulations made for the purposes of the *Public Health Act 2016* section 142(1)(d) to not permit a child to attend the school or participate in an educational programme of the school.

(1) The principal of a school may require that a student —

(a) not attend the school; or

(b) not participate in an educational programme of the school,

during any day on which the student or any other student at the school is suffering from a medical condition to which this section applies.

(2) Subsection (1) applies to a medical condition that, on advice from the Chief Health Officer or a registered medical practitioner, the principal considers may be infectious, contagious or otherwise harmful to the health of persons who are at the school or participating in an educational programme of the school.

[(3A) deleted]

(3) A requirement under subsection (1) is to be in writing given —

(a) to a parent of the student; or

(b) in the case of a student who has turned 18 or who is a prescribed child, to the student; or

(c) to a person whose details have been provided under section 16(1)(b)(ii)(II).

(4) An adult who is notified of a requirement under subsection (1) is to ensure that it is complied with by the student.

Penalty: a fine of $500.

[Section 27 amended: No. 28 of 2014 s. 35; No. 19 of 2016 s. 188; No. 14 of 2019 s. 18.]

28. Attendance records, principal's duties as to

(1) A principal of a school must ensure —

(a) that records are kept showing for each day whether a student —

(i) attended, or participated in an educational programme of, the school; or

(ii) failed to so attend or participate;

and

(b) that particulars so recorded are retained for the period prescribed by the regulations.

(2) The records referred to in subsection (1) —

(a) may be kept in electronic form; but

(b) must be capable of being reproduced in written form.

(3) The duty imposed by subsection (1)(b) extends to the register that was required to be kept by section 33 of the *Education Act 1928*.

29. Employing child during school hours, offence

(1) A person must not employ or permit to be employed a child of compulsory school age during the hours when the child is required to —

(a) attend school; or

(b) otherwise participate in an educational programme of a school.

Penalty: a fine of $5 000.

(1a) In subsection (1) —

child of compulsory school age includes a child to whom section 9(1) does not apply by operation of section 11F(2), 11H(5) or 11H(6).

(2) A child is employed within the meaning of subsection (1) if the child is engaged in work for the purpose of gain by a person even if the child is not paid for the work done.

(3) Subsection (1) does not apply if the employment of the child —

(a) is authorised by an arrangement under section 24; or

(b) is —

(i) included in the educational programme applicable to the child; or

(ii) approved under section 11G,

and is consistent with the terms and conditions of the programme or approval.

[Section 29 amended: No. 22 of 2005 s. 25; No. 28 of 2014 s. 35.]

Division 4 — Government schools, absence for special observance

30. Recognized religious or cultural period, child excused from attendance for

(1) A student is excused from —

(a) attendance at a government school at which he or she is enrolled; or

(b) participation in an educational programme of the school,

on a day, or during a period, that under section 31 is recognized as having religious or cultural significance for the student or the student's parents.

(2) Subsection (1) does not apply unless before the day, or the beginning of the period, in question the principal has been notified that the student will not attend or participate on that day or during that period.

(3) A notification to a principal under subsection (2) may be given in any way that is determined by the principal to be acceptable, either generally or in a particular case.

(4) A notification under subsection (2) is to be given —

(a) by a parent of the student; or

(b) in the case of a student who has turned 18 or who is a prescribed child, by the student; or

(c) by a person whose details have been provided under section 16(1)(b)(ii)(II).

(5) Despite subsections (1) and (2), where it is not reasonably practicable for a notice to be given under subsection (2) a student is excused as mentioned in subsection (1) if the notice is given as soon as is reasonably practicable after the day or the period in question.

(6) In subsection (1)(a) —

school includes any place to which an arrangement under section 24 relates.

31. Days etc. to which s. 30 applies

(1) The regulations are to prescribe —

(a) days or periods; or

(b) days on which, or periods during which, specified events occur,

that are recognized for the purposes of section 30.

(2) The Minister may at the request —

(a) of a parent of a student; or

(b) in the case of a student who has turned 18 or who is a prescribed child, of the student; or

(c) of a person whose details have been provided under section 16(1)(b)(ii)(II),

approve a particular day or period that is not prescribed under subsection (1) as a recognized day or period for that student.

Division 5 — Absentee students and non-participating children

[Heading amended: No. 22 of 2005 s. 26.]

Subdivision 1 — Preliminary

32. Terms used

In this Division, unless a contrary intention appears —

absentee student means a child of compulsory school age who is in breach of section 23;

attendance officer means an officer designated as such under section 33;

Attendance Panel means an Attendance Panel under section 39;

provider has the meaning given by section 11A(2).

[Section 32 amended: No. 22 of 2005 s. 27.]

Subdivision 2 — Attendance officers

[Heading amended: No. 22 of 2005 s. 28.]

33. Attendance officers, designation of

The Minister may designate as an attendance officer —

(a) any person who comes within a class of employees referred to in section 235(1)(a) or (c); and

(b) any person who is employed in the department principally assisting the Minister in the administration of Part 4; and

(c) a member of the teaching staff of a government or a non-government school.

[Section 33 amended: No. 22 of 2005 s. 40(1).]

34. Attendance officer, certificate of designation for

(1) The Minister is to provide to a person who has been designated as an attendance officer a certificate stating that the person has been so designated.

(2) An attendance officer must produce the certificate whenever asked to do so by a person in respect of whom he or she is exercising or about to exercise any power.

(3) A certificate purporting to have been issued under this section is evidence in any proceedings that the person concerned has been designated under section 33.

(4) An attendance officer must wear an identification badge in the prescribed form when exercising any of the powers of an attendance officer.

[Section 34 amended: No. 22 of 2005 s. 40.]

35. Pretending to be attendance officer, offence

A person must not pretend to be an attendance officer if he or she has not been designated as such under section 33.

Penalty: a fine of $5 000.

[Section 35 amended: No. 50 of 2003 s. 94(2); No. 22 of 2005 s. 40(1); No. 28 of 2014 s. 35.]

Subdivision 3 — Powers of attendance officers

[Heading amended: No. 22 of 2005 s. 29.]

36. Powers to detain and question and to enter public places

(1) An attendance officer may —

(a) stop and detain a person whom he or she reasonably believes to be an absentee student or a child who is not complying with section 11I; and

(b) enter any premises to which the public has access, without paying the charge, if any, for access to the

premises, for the purpose of checking whether any absentee student or child who is not complying with section 11I is on the premises.

(2) A person detained under subsection (1) —

(a) may be questioned by an attendance officer as to whether the person is an absentee student or a child who is not complying with section 11I; and

(b) may be required to inform an attendance officer of —

(i) his or her full name and address; and

(ii) his or her age; and

(iii) in the case of a person who appears to the officer to be an absentee student, the name of the school at which he or she is enrolled; and

(iv) in the case of a person who appears to the officer to be a child who is not complying with section 11I, the name or names of the relevant provider or providers in respect of the child.

(3) A person to whom a requirement under subsection (2) is directed must not —

(a) fail to comply with the requirement; or

(b) in purported compliance give any information that is false or misleading.

Penalty: a fine of $200.

[Section 36 amended: No. 22 of 2005 s. 30 and 40; No. 28 of 2014 s. 35.]

37. Obstructing etc. attendance officer, offence

A person must not resist, hinder or obstruct an attendance officer who is exercising or attempting to exercise any power under this Subdivision.

Penalty: a fine of $500.

[Section 37 amended: No. 22 of 2005 s. 40(1); No. 28 of 2014 s. 35.]

Subdivision 4 — Dealing with non-attendance and non-participation and enforcing attendance and participation

[Heading amended: No. 22 of 2005 s. 31.]

38. Breach of s. 23, offence by parent and child

(1) A parent of a child of compulsory school age who is enrolled at a school must ensure that section 23 is complied with by the child.

Penalty: a fine of $1 000.

Note for this subsection:

The *Sentencing Act 1995* provides for sentencing options for an adult.

(2) A child of compulsory school age who is enrolled at a school must comply with section 23.

Penalty: a fine of $10.

Note for this subsection:

The *Young Offenders Act 1994* provides for how a court is to deal with a young person who has been found guilty of an offence.

[Section 38 amended: No. 22 of 2005 s. 32; No. 28 of 2014 s. 35.]

39. Attendance Panel, appointment and procedure of etc.

(1) The Minister may appoint an Attendance Panel (a ***Panel***), consisting of not less than 3 persons, as he or she considers necessary for the purposes of this Act.

(2) A member of a Panel for a particular case, or class of cases, is to be a person who has such experience, skills, attributes or qualifications as the Minister considers appropriate to that case or class of cases.

(3) At least one person on a Panel must be a parent or community representative.

(4) The Minister is to appoint one of the members of a Panel to be the chairperson but the appointee is not to be a person who —

(a) comes within a class of employees referred to in section 235(1)(a) or (c); or

(b) is employed in the department principally assisting the Minister in the administration of Part 4.

(5) A Panel cannot deal with the case of a child —

(a) who is enrolled at a government school if a member of the Panel is —

(i) a member of teaching staff of the school; or

(ii) a parent of a child who is enrolled at the school;

or

(b) who is enrolled at a non-government school if a member of the Panel is —

(i) the principal of, or a teacher employed at, the school; or

(ii) a parent of a child who is enrolled at the school.

(6) The Minister may give directions in writing to a Panel as to its procedure and a Panel is to give the child whose case is before the Panel and the child's parents an opportunity to be heard, but otherwise a Panel may determine its own procedure.

(7) Subject to the Minister's directions, the child and parents referred to in subsection (6) are not to be represented by another person before the Panel unless the Panel otherwise determines on the ground that the process will not work effectively without that representation but nothing in this subsection prevents the child and parents from being accompanied by another person when appearing before the Panel.

(8) The Minister is to ensure that a Panel is provided with such support services as it may reasonably require.

(9) The Minister may —

(a) direct that the members of a Panel are to be paid remuneration or allowances or both; and

(b) determine the amount of any such payments on the recommendation of the Public Sector Commissioner.

[Section 39 amended: No. 22 of 2005 s. 39(1); No. 39 of 2010 s. 89.]

40. Persistent breach of s. 23, referral of case to Attendance Panel

(1) Where a child of compulsory school age enrolled at a school has been persistently in breach of section 23, the child's case may be referred to an Attendance Panel by —

(a) the principal of the school; or

(b) an attendance officer; or

(c) the chief executive officer or the chief executive officer referred to in section 151, as is relevant to the case.

(1a) Where a child in respect of whom notice has been given under section 11D or 11H is not complying with section 11I, the child's case may be referred to an Attendance Panel by —

(a) a relevant provider in respect of the child; or

(b) an officer mentioned in subsection (1)(b) or (c).

(1b) Subsection (1a) does not apply where the non-compliance is a failure to participate in an apprenticeship as mentioned in section 11I(2)(a).

(2) On such a referral a Panel is to —

(a) inquire into the reasons for the child's failure to comply with section 11I or 23 including the social, cultural, lingual, economic or geographic factors, or learning difficulties, that might be affecting the child's failure to comply; and

(b) give such advice and assistance to the child and to his or her parents as it thinks fit.

(3A) Under subsection (2)(b), a Panel may advise that a responsible parenting agreement under the *Children and Community Services Act 2004* be entered into, and complied with, in respect of the child.

(3) The chairperson may by notice in writing —

(a) request the attendance of a child and his or her parents at a place and time specified in the notice; and

(b) request any person to produce at a place and time specified in the notice any document or record that is in the possession or under the control of that person.

(4) The Panel may —

(a) inspect any document or record produced and retain it for such reasonable period as it thinks fit, and make copies of it or any of its contents; and

(b) request any person to answer any question put to him or her.

(5) The Panel is to prepare a written report on the child's case setting out any advice or assistance given by the Panel, comments about how the matter had been dealt with and recommendations about how the matter should be dealt with and give a copy of the report —

(a) to a parent of the child; and

(b) if the child is a prescribed child, to the child; and

(c) to a person whose details have been provided under section 16(1)(b)(ii)(II); and

(d) to the school's principal; and

(e) if the child is enrolled at a government school, to the chief executive officer; and

(f) if the child is enrolled at a non-government school and on the request of the chief executive officer referred to in section 151, to that chief executive officer; and

(fa) if the child is a child who has not complied with section 11I, to the provider or providers in respect of the child; and

(g) if the child's case was referred to the Panel by an attendance officer, to the officer.

[Section 40 amended: No. 22 of 2005 s. 33, 39(1) and 40(1); No. 44 of 2008 s. 61(11); No. 28 of 2014 s. 27; No. 23 of 2015 s. 20.]

41. Prosecution of s. 9 or 38 offence, commencement of if case referred to Attendance Panel

(1) Where a child's case has been referred to an Attendance Panel under section 26 or 40(1) and the Panel has given advice or offered assistance under section 26(2)(b) or 40(2)(b), a prosecution for an offence against section 38 is not to be commenced unless there has been failure to follow the advice or accept the assistance.

(1a) Where a child's case has been referred to an Attendance Panel under section 40(1a) and the Panel has given advice or offered assistance under section 40(2)(b), a prosecution for an offence against section 9 is not to be commenced unless there has been failure to follow the advice or accept the assistance.

(2) The fact that a child's case has been referred to an Attendance Panel does not affect the ability of a person who could commence a prosecution against the child for a breach of section 38(2) from referring the matter for consideration by a juvenile justice team under section 27 of the *Young Offenders Act 1994*, instead of commencing a prosecution.

[Section 41 amended: No. 84 of 2004 s. 80; No. 22 of 2005 s. 34 and 39(1).]

42. Prosecution of s. 9 or 38 offence, prerequisites to commencing

(1) A prosecution for an offence against section 38(1) or 38(2) is not to be commenced in respect of a child unless a certificate has been given that —

(a) reasonably practicable steps have been taken to secure compliance with section 23 by the child; but

(b) breaches of the section have continued.

(1a) A prosecution for an offence against section 9(2) is not to be commenced in respect of a child to whom a notice under section 11D or 11H relates unless a certificate has been given that —

(a) reasonably practicable steps have been taken to secure compliance with section 11I by the child; but

(b) non-compliance with that section has continued.

(1b) Subsection (1a) does not apply where the non-compliance is a failure to participate in an apprenticeship as mentioned in section 11I(2)(a).

(2) Subject to subsection (3), a certificate under subsection (1) is to be given either —

(a) by the Attendance Panel to which the child's case was referred under section 26 or 40; or

(b) by —

(i) the chief executive officer referred to in section 151 in the case of a child enrolled at a non-government school; or

(ii) the chief executive officer referred to in section 229 in the case of a child enrolled at a government school or a child in respect of whom notice has been given under section 11D or 11H.

(3) If the CEO as defined in section 3 of the *Children and Community Services Act 2004* has parental responsibility for a

child under that Act, a certificate under subsection (1) is to be given by the chief executive officer referred to in section 229 or if the child's case has been referred to an Attendance Panel, by both of the chief executive officer and the Panel.

[(4) deleted]

(5) In any proceedings under section 9 or 38 the certificate given under subsection (1) or (1a) is to be given to the court.

(6) Where in any proceedings a document is produced purporting to be a certificate given under subsection (1) or (1a), the court is to presume, unless the contrary is shown, that the document is such a certificate.

[Section 42 amended: No. 34 of 2004 Sch. 2 cl. 24; No. 84 of 2004 s. 80; No. 22 of 2005 s. 35 and 39; No. 44 of 2008 s. 61(12); No. 28 of 2014 s. 28.]

43. Proceedings for s. 9 or 38 offence, parent may be required to bring child to court

(1) Where this section applies an authorised person may give a notice to a parent of the child requiring the parent —

(a) to bring the child to the court at a time and place specified in the notice; and

(b) to keep the child in attendance at the court until he or she is permitted to leave by the court or an authorised person.

(1a) This section applies in any proceedings —

(a) for an offence against section 9(2) in respect of a child who has not complied with section 11I; and

(b) for an offence against section 38.

(2) A person to whom a notice is given under subsection (1) must comply with the notice.

Penalty: a fine of $500.

(3) In subsection (1) —

authorised person means —

(a) an attendance officer; or

(b) a person who —

(i) comes within a class of employees referred to in section 235(1)(a) or (c); or

(ii) is employed in the department principally assisting the Minister in the administration of Part 4,

and who is authorised by the Minister for the purposes of this section.

(4) A certificate that a person has been authorised for the purposes of this section purporting to have been issued by the Minister is evidence in any proceedings that the person concerned has been so authorised.

[Section 43 amended: No. 22 of 2005 s. 36 and 40(1); No. 28 of 2014 s. 35.]

44. Evidentiary matters for s. 9 and 38 charges

In a charge of an offence against section 9(2) in respect of a child who has not complied with section 11I or against section 38 any of the following statements in relation to a particular case are to be taken to be proved unless the contrary is shown —

(a) that a child was enrolled at a school on any day or days;

(b) that on any day or days a school was open for instruction;

(c) that a child enrolled at a school —

(i) did not —

(I) attend the school; or

(II) otherwise participate in an educational programme of the school,

as required by the principal; or

(ii) did not comply with an arrangement under section 24;

(ca) that a notice was given under section 11D or 11H in respect of a child;

(cb) a statement as to the contents at a particular time of a notice given under section 11D or 11H;

(cc) that a child in respect of whom a notice was given under section 11D or 11H has not complied with section 11I;

(cd) a statement as to acts, omissions or conduct that constitute such non-compliance;

(d) that a person is a parent of a child.

[Section 44 amended: No. 84 of 2004 s. 80; No. 22 of 2005 s. 37.]

45. Prosecution of s. 9 and 38 offences, who may conduct

(1) Prosecutions for offences against section 9(2) in respect of a child who has not complied with section 11I or against section 38 may be conducted by any person who —

(a) comes within a class of employees referred to in section 235(1)(a) or (c); or

(b) is employed in the department principally assisting the Minister in the administration of Part 4,

and who is authorised by the Minister to do so.

(2) Subsection (1) does not limit the ability of a person to commence or conduct the prosecution of an offence if the person has authority at law to do so.

(3) A certificate purporting to have been issued by the Minister stating that a person has power under subsection (1) to conduct prosecutions is evidence in any proceedings that the person has that power.

[Section 45 amended: No. 84 of 2004 s. 80; No. 22 of 2005 s. 38.]

Division 6 — Home education

46. Term used: home educator

In this Division —

home educator means a parent who is registered under section 48.

47. Registration as child's home educator, application for

(1) A parent of a child of compulsory school age who wishes to be registered as the child's home educator is to apply to the chief executive officer and provide the following information to the extent that he or she is asked to do so —

(a) the child's date of birth; and

(b) the names and usual place of residence of —

(i) the child; and

(ii) the child's parents;

and

(c) the place at which the educational programme will primarily be delivered if different from the child's usual place of residence; and

(d) where applicable, the name of the school at which the child is enrolled or was last enrolled; and

(e) any other information prescribed by the regulations.

(2) The chief executive officer may require documentary evidence to be provided in support of any information supplied by the applicant.

(3) An application may relate to more than one child.

(4) Subject to subsection (5), an application is to be made by the last Friday in February in the first year for which the parent wishes to be registered as the child's home educator.

(5) If a child is enrolled in a school for a particular year and a parent of the child wishes to be registered as the child's home educator in that year, the application is to be made within 14 days after the last day on which the child was recorded as —

(a) attending, or participating in an educational programme of, the school at which the child was enrolled; or

(b) otherwise complying with section 23.

48. Registration of home educator, CEO's functions as to

(1) On receipt of a completed application under section 47(1) and the documentary evidence required under section 47(2) the chief executive officer is to —

(a) register the parent as the child's home educator; and

(b) issue the parent with a certificate of registration.

(2) A child's home educator is responsible for the child's educational programme from the day set out in the certificate as the day of registration in respect of the child.

(3) The registration of a home educator in respect of a child has effect indefinitely unless the registration is cancelled under section 53.

49. Home educator to inform CEO of certain matters

A child's home educator is to inform the chief executive officer —

(a) of any change to the details provided in the application under section 47(1); or

(b) if the child is enrolled at a school,

as soon as is practicable after the change or the enrolment.

50. Home education moderators, appointment of

(1) The chief executive officer —

(a) may appoint persons who have such experience, skills or qualifications as the chief executive officer considers appropriate to enable them to effectively evaluate the educational programmes of children whose education is being provided under this Division and to evaluate the educational progress of those children; and

(b) is to provide to a person so appointed (a ***home education moderator***) a certificate stating that the person is appointed for the purposes of this section.

(2) A home education moderator must produce the certificate referred to in subsection (1)(b) whenever asked to do so by a person in charge of any premises being visited by the moderator under an arrangement referred to in section 51.

51. Evaluation of child's educational programme and progress, when required etc.

(1) A child's home educator is to arrange with the chief executive officer for an evaluation to be made of the child's educational programme and educational progress —

(a) within 3 months of the day of the home educator's registration in respect of the child; and

(b) at least once in each 12 month period following that registration.

(2) A home educator is to give the chief executive officer at least 21 days' notice of an evaluation that is required to be made under subsection (1)(a) or (b).

(3) An evaluation is to be made —

(a) at the time that is agreed between the home educator and the home education moderator; and

(b) at the place that is the usual place for the child's educational programme to be undertaken unless the home educator objects, in which case the evaluation is to be made at the place that is agreed between the home educator and the home education moderator.

(4) Following an evaluation, the home education moderator is to prepare a report about the child's educational programme and educational progress and provide a copy of the report to the home educator and to the chief executive officer.

52. CEO may notify home educator of concern and require evaluation

(1) If the chief executive officer has a concern about a child's educational progress, the chief executive officer may —

(a) give the child's home educator written notice of the concern and the reasons for the concern; and

(b) arrange for an evaluation to be made on 7 days' notice to the home educator for the purpose of ascertaining whether the concern has been adequately addressed.

(2) An evaluation under subsection (1) is to be made —

(a) within the notice period or as soon as possible after the expiry of the notice period, but otherwise at the time that is agreed between the home educator and the home education moderator; and

(b) at the place that is the usual place for the child's educational programme to be undertaken unless the home educator objects, in which case the evaluation is to be made at the place that is agreed between the home educator and the home education moderator.

(3) Following an evaluation under subsection (1), the home education moderator is to prepare a report about whether the concern has been adequately addressed and provide a copy of

the report to the home educator and to the chief executive officer.

53. Cancelling s. 48 registration, CEO's functions as to

(1) The chief executive officer may cancel a home educator's registration under section 48 in respect of a child if —

(a) in the opinion of the chief executive officer, the child's educational progress is not satisfactory; or

(b) the home educator has not arranged an evaluation required under section 51(1)(a) or (b) in respect of the child; or

(c) the home educator does not agree to an evaluation required under section 52(1)(b) in respect of the child from occurring in accordance with section 52(2); or

(d) a home education moderator has been hindered or obstructed in an evaluation required under section 51(1)(a) or (b) or section 52(1)(b); or

(e) the home educator has not complied with section 49 in respect of the child.

(2) Before deciding under subsection (1)(a) that a child's educational progress is not satisfactory the chief executive officer may take into account —

(a) the outline of curriculum and assessment in schools established under the *School Curriculum and Standards Authority Act 1997*;

(b) the effect of the physical learning environment on the child's educational progress;

(c) any other matter which, in the opinion of the chief executive officer, is relevant to the child's education.

(3) If the chief executive officer decides to cancel a home educator's registration the chief executive officer is to give written notice to the home educator of the decision and written reasons for the decision.

(4) The notice must set out a cancellation period that is —

(a) at least until 1 January in the year following the year in which the cancellation takes effect; and

(b) not longer than 12 months from the day on which the cancellation takes effect.

(5) A decision that a home educator's registration be cancelled is not to be given effect to —

(a) until the time for applying under section 54(1) has passed; and

(b) if an application is made under section 54(1), until it has been determined.

[Section 53 amended: No. 37 of 2011 s. 58(2).]

54. Review of s. 53 decision

(1) A child's home educator may apply in writing to the Minister for a review of the chief executive officer's decision to cancel the home educator's registration in respect of the child.

(2) The application is to be made within 14 days after the applicant received written notice of the decision.

(3) Where an application is made under subsection (1), the Minister is to refer the matter to a Home Education Advisory Panel which is to examine the matter and report to the Minister with its recommendation.

(4) A Home Education Advisory Panel is to give the applicant the opportunity to be heard.

(5) The Minister is to give a copy of the report of the Home Education Advisory Panel to the applicant.

(6) The Minister after considering the report may confirm, vary or reverse the chief executive officer's decision and is to give written notice to the applicant of the Minister's decision and written reasons for that decision.

(7) In this section —

Home Education Advisory Panel means an advisory panel under section 241 established for the purposes of subsection (3) of this section.

Part 3 — Government schools

What this Part is about

This Part enacts provisions that apply only to government schools.

In particular it deals with —

- the establishment, closure and amalgamation of government schools, and the designation of schools in some areas as being primarily for the enrolment of students in that area (Division 1);
- the functions of the chief executive officer of the department responsible for government schools and of principals and teachers in those schools (Division 2);
- the curriculum in government schools, the provision of special religious education, and conscientious objection to instruction in particular subjects (Division 3);
- entitlement to enrol at government schools, changing inappropriate enrolments, and the resolution of disputed issues about enrolment (Division 4);
- the suspension and exclusion of students from government schools for breaches of school discipline or sexual offending against other students (Division 5);
- restrictions on the imposition of fees and charges in government schools, and provisions for the management of school funds (Division 6);
- miscellaneous management provisions relating to the operation of government schools and the control of school premises (Division 7);
- provisions as to the establishment and operation of School Councils and relating to Parents and Citizens' Associations for government schools (Division 8).

[Note altered: No. 13 of 2024.]

Division 1 — Establishment, closure etc.

55. Establishing etc. school, Minister's powers as to

(1) The Minister may establish such government schools as the Minister considers necessary for the provision of public education.

(2) The Minister may —

(a) assign a name and classification to; and

(b) change the name or classification of,

a government school.

56. Closing, amalgamating etc. schools, Minister's powers as to

(1) The Minister may on such terms and conditions as he or she thinks fit —

(a) amalgamate 2 or more government schools; and

(b) close any government school either temporarily or permanently.

(2) The powers conferred by subsection (1) may be exercised in respect of part of a government school.

(3) If the Minister is satisfied that a government school is regularly attended by less than the prescribed number of students the Minister is to either —

(a) change the classification of the school under section 55(2); or

(b) take action under subsection (1) in relation to the school.

(4) Subsection (3) does not apply where the Minister determines that there are significant educational, economic or social reasons for not complying with that subsection.

57. Consultation requirements before s. 56 power exercised

(1) If the Minister proposes to amalgamate 2 or more government schools or to close any government school permanently, the Minister is to consult with —

(a) the parents of the students who are enrolled at the school or schools affected by the proposal, in relation to the matters referred to in subsection (2); and

(b) the Council of each school affected by the proposal, in relation to the matters referred to in subsection (2); and

(c) each Parents and Citizens' Association formed under section 142 which would be wound up as an effect of the

proposal, in relation to the disposal of property acquired by the association.

(2) The matters for consultation under subsections (1)(a) and (b) are —

(a) alternative arrangements for the enrolment of students who are affected by the proposal and the appropriateness of the arrangements; and

(b) the provision of educational programmes for the students who are affected by the proposal; and

(c) the disbursement of any assets realized as a result of the proposal; and

(d) any other relevant matter.

(3) The Minister may consult for the purposes of this section in any way that he or she thinks appropriate, and the Minister's decision on the manner of consultation is not liable to be challenged, reviewed or called in question by a court.

58. Permanent closure, procedure for

(1) If the Minister proposes to permanently close a government school under section 56 the Minister is to publish notice of the proposal in the *Government Gazette*.

(2) If a notice is published under subsection (1) in respect of a school, the school cannot be closed unless the consultation required by section 57 occurs after the notice was published and —

(a) a period of 12 months has expired since the notice was published; or

(b) the Minister is sooner satisfied that —

(i) a majority of the parents of students enrolled at the school wish the school to be closed; or

(ii) there are exceptional circumstances which justify closure,

before the period of 12 months expires.

59. Permanent closure for safety or welfare reasons

The Minister may by order published in the *Government Gazette* permanently close a government school under section 56, without complying with section 57 or 58, if he or she is of the opinion that the safety or welfare of teachers or students at the school may be at risk if the school is not closed as soon as possible.

60. Local-intake schools, declaration of etc.

(1) The chief executive officer may by order published in the *Government Gazette* —

(a) declare any government school to be a local-intake school; and

(b) define the area from which the school is to have its intake of students.

(2) An order under subsection (1) may be revoked or amended by the chief executive officer by further order published in the *Government Gazette*.

(3) The chief executive officer is to publish in the *Government Gazette* for information during the last quarter of each year —

(a) a list of local-intake schools; and

(b) a list of schools that have not been declared to be local-intake schools,

as at a specified day.

Division 2 — Functions of chief executive officer, principals and teachers

61. CEO's functions

(1) The chief executive officer is responsible for determining, implementing and monitoring —

(a) the standard of educational instruction in government schools; and

(b) the standard of care provided to students in those schools.

(2) The functions described in subsection (1) —

(a) do not affect any other function —

(i) given to the chief executive officer by this Act; or

(ii) delegated to the chief executive officer by the Minister under section 224;

and

(b) have effect subject to this Act; and

(c) are in addition to the functions given by section 29(1) of the *Public Sector Management Act 1994*.

(3) The chief executive officer has powers necessary or convenient for the performance of the functions described in subsection (1).

62. Principals, appointment of

(1) Every government school is to have a principal, that is a person appointed under section 236(2) to be in charge of the school.

(2) Except with the approval of the Minister, a person is not to be so appointed unless he or she is classified as a school administrator under section 237.

(3) Subsection (2) does not apply to a temporary or acting appointment.

(4) Nothing in subsection (2) prevents a person from being appointed as a principal and being classified as a school administrator at the same time.

63. Principal's functions

(1) The functions of the principal of a government school are —

(a) to provide educational leadership in the school; and

(b) to have responsibility for the day to day management and control of the school, including all persons on the school premises; and

(c) to ensure the safety and welfare of students —

(i) on the school premises; and

(ii) away from the school premises but on school activities,

so far as that can reasonably be done; and

(d) to see that instruction provided in the school is in accordance with the requirements of —

(i) the *School Curriculum and Standards Authority Act 1997*; and

(ii) any determination under section 67;

and

(e) to establish a plan for the school in consultation with the Council and the school's teaching staff setting out its objectives and how the objectives and priorities will be achieved; and

(f) in consultation with the Council and the school's teaching staff to monitor and report on the school's performance in relation to the plan referred to in paragraph (e); and

(g) to promote cooperation with the local community; and

(h) to encourage innovation in educational practice; and

(i) to perform any other prescribed function assigned to the principal by the chief executive officer.

(2) The principal of a government school has the powers necessary for the performance of his or her functions.

(3) The functions set out in subsection (1) —

(a) do not affect any other function given or delegated to a principal by or under this Act; and

(b) have effect —

(i) within the limits of the powers vested in the principal; and

(ii) subject to this Act and the direction and control of the chief executive officer.

[Section 63 amended: No. 37 of 2011 s. 58(3).]

64. Teacher's functions

(1) The functions of a teacher in a government school are —

(a) to foster and facilitate learning in students; and

(b) to give competent instruction to students in accordance with —

(i) the curriculum; and

(ii) standards determined by the chief executive officer; and

(iii) the school's plan referred to in section 63(1)(e),

and to undertake the preparation necessary to do so; and

(c) to undertake regular evaluation and reporting of the progress of students within the terms of the school plan referred to in section 63(1)(e); and

(d) to be answerable to the principal for the educational achievement of students under his or her instruction; and

(e) to supervise students and to maintain proper order and discipline on their part; and

(f) to carry out administrative duties to meet organizational requirements relevant to the teacher's functions; and

(g) perform any other prescribed function assigned by the chief executive officer.

(2) The functions set out in subsection (1) have effect subject to —

(a) this Act; and

(b) the instructions of the chief executive officer; and

(c) the direction and control of the principal.

65. Assigned function etc. not to be inconsistent with industrial arrangements

Nothing in section 63(1)(i) or 64(1)(g) or section 64(2)(b) or (c) enables the chief executive officer or a principal to assign a function or give an instruction or direction that is inconsistent with a term or condition of service referred to in section 236(3).

Division 3 — Educational instruction

66. Terms used

In this Division —

general religious education means education about the major forms of religious thought and expression characteristic of Australian society and other societies in the world;

special religious education means education provided by churches and other religious groups and based on distinctive religious tenets and beliefs.

67. Curriculum, determination of

The curriculum in a government school is to be determined by the chief executive officer, but any determination is to be made in accordance with the requirements of the *School Curriculum and Standards Authority Act 1997*.

[Section 67 amended: No. 37 of 2011 s. 58(3).]

68. Curriculum not to promote certain matters

(1) The curriculum and teaching in government schools is not to promote —

(a) any particular religious practice, denomination or sect; or

(b) any particular political party; or

(c) any commercial goods, product or service; or

(d) the case of a party to an industrial dispute.

(2) Subsection (1)(a) is not to be read as preventing —

(a) the inclusion of general religious education in the curriculum of a school; or

(b) prayers, songs and other material based on religious, spiritual or moral values being used in a school activity as part of general religious education.

69. Special religious education, provision of

(1) Special religious education may be provided to students in government schools in accordance with provisions made by the regulations.

(2) Subject to the regulations, the principal of a government school may allow time for the special religious education of students in the school, but the total number of hours so allowed in a school year is not to exceed 40.

(3) Provision made by the regulations for the purposes of this section may authorise the chief executive officer to approve persons as being authorised to give special religious education in government schools.

70. Prayers etc., principal to consult school Council about

If a school has a Council the principal is to consult the Council on —

(a) a general policy concerning the use in school activities of prayers, songs and material referred to in section 68(2)(b); and

(b) the implementation of section 69(2).

71. Special religious instruction etc., parent may withdraw child from

(1) A parent of a child at a government school may notify the principal in writing that the child is not to —

(a) receive any special religious education; or

(b) attend that part of a school activity at which material referred to in section 68(2)(b) is used.

(2) A principal to whom such a notice is given must take all reasonable steps to see that the parent's wishes are complied with.

72. Conscientious objection to subject, principal may exempt child from classes on

(1) A parent of a child at a government school may in writing request the principal to grant an exemption for the child from attendance at classes at which a particular part of a course of study is taught.

(2) Where such a request is made the principal may grant an exemption in terms of subsection (1) if the principal is satisfied that the request —

(a) is made on the grounds of conscientious objection; and

(b) satisfies any requirements contained in the CEO's Instructions under section 233 in respect of the granting of exemptions under this section.

(3) An exemption under this section —

(a) may be granted subject to conditions; and

(b) may be revoked if any condition is not observed.

73. Child with disability, educational programme for

(1) Where a child with a disability is enrolled at a government school, the principal is to —

(a) consult with the child's parents, any of the child's teachers or prospective teachers and, if appropriate, the child; and

(b) take into account the wishes of the child's parents and, if appropriate, the child,

for the purpose of addressing or reviewing the particular child's requirements in relation to the content and implementation of the educational programme for the child.

(2) The content and implementation of the educational programme for a child with a disability is to be decided by the principal subject to the direction and control of the chief executive officer.

74A. Child in early education period, educational programme for

(1) An educational programme must not be provided at a government school for a child in the early education period for that child unless the Minister has approved the provision of the programme at the school.

(2) The content and implementation of an educational programme referred to in subsection (1) is to be decided by the principal subject to the direction and control of the chief executive officer.

(3) An organised set of learning activities provided at a government school for a child in the early education period for that child before the commencement of the *Education and Care Services National Law (WA) Act 2012* Part 4 Division 7 is, and is to be taken to always have been, an educational programme lawfully and validly provided to a student under this Act.

[Section 74A inserted: No. 11 of 2012 s. 38.]

Division 4 — Enrolment

74. Application for enrolment of child

(1) A person who wishes to enrol a child at a government school is to lodge a completed application for enrolment with the principal of a government school at which the child is eligible to be enrolled under this Division.

(2) In subsection (1) —

person, in relation to a child, means —

(a) a parent of the child; or

(b) if the child is a prescribed child, the child; or

(c) a person whose details have been provided under section 16(1)(b)(ii)(II).

(3) A person who has turned 18 who wishes to enrol at a government school is to lodge a completed application for enrolment with the principal of a government school for which an approval has been given to the person under section 81.

(4) The application is to be made in a form approved by the chief executive officer.

(5) A person cannot be required to provide information under this section unless the information is prescribed under section 16.

75. Enrolment of child, principal's duties as to

(1) The principal of a government school is to enrol a child at the school if —

(a) an application is duly made under section 74; and

(b) the child is entitled under this Division to be enrolled at the school.

(2) Subsection (1) does not apply if the principal is satisfied that —

(a) the child is already enrolled at a school; and

(b) the period of attendance at the school to which the application relates is likely to be less than 4 weeks.

(3) In this section and in section 76 —

child includes a person referred to in section 74(3).

76. General residential qualification for child to be enrolled

(1) A child is not entitled to be enrolled at a government school unless —

(a) the usual place of residence of the child is in the State; and

(b) the child is entitled to reside permanently in Australia.

(2) A child who does not come within subsection (1) is entitled to be enrolled at a government school if he or she satisfies the criteria (if any) prescribed by the regulations for the purposes of this subsection.

77. Child below compulsory school age, when entitled to be enrolled

A child is entitled to be enrolled at a particular government school for each year before the child's compulsory education period falls if —

(a) there is available for the child at that school —

(i) an appropriate educational programme; and

(ii) classroom accommodation;

and

(aa) the enrolment would not contravene the *Public Health Act 2016* section 141D; and

(b) the enrolment would conform with other criteria prescribed by the regulations for the purposes of this section.

[Section 77 amended: No. 11 of 2012 s. 39; No. 14 of 2019 s. 19.]

78. Child of compulsory school age, when entitled to be enrolled at local-intake school

(1) A child of compulsory school age is entitled to be enrolled at a local-intake school if —

(a) his or her usual place of residence is in the intake area for that school; and

(b) an appropriate educational programme is available for the child at that school.

(2) A child of compulsory school age whose usual place of residence is not in the intake area for a local-intake school is entitled to be enrolled at that school if —

(a) there is available for the child at that school —

(i) an appropriate educational programme; and

(ii) classroom accommodation;

and

(b) the enrolment would conform with any other criteria prescribed by the regulations for the purposes of this subsection.

79. Child of compulsory school age, when entitled to be enrolled at non local-intake school

(1) Subject to subsection (2), a child of compulsory school age is entitled to be enrolled at a particular government school that is not a local-intake school if —

(a) there is available for the child at the school —

(i) an appropriate educational programme; and

(ii) classroom accommodation;

and

(b) the enrolment would conform with any other criteria prescribed by the regulations for the purposes of this section.

(2) If the number of children referred to in subsection (1) applying for enrolment at a particular government school that is not a local-intake school exceeds the number of available places at the school, priority for enrolment is to be given to the child who lives nearest the school.

*[**80.** Deleted: No. 22 of 2005 s. 7.]*

81. Enrolment of person after compulsory education period

(1) A person whose compulsory education period has ended before the beginning of a year may only be enrolled at a government school for that year with the approval of the chief executive officer.

(2) An approval under subsection (1) —

(a) must be granted in accordance with any matter that is prescribed by the regulations for the purposes of this subsection; and

(b) may be granted subject to compliance with any condition that is prescribed by the regulations for the purposes of this subsection.

[Section 81 amended: No. 22 of 2005 s. 8.]

82. Resolving question under s. 76, 77, 78 or 79

(1) This section applies to a child —

(a) in the child's —

(i) pre-compulsory education period; or

(ii) compulsory education period;

and

(b) in respect of whom an application for enrolment has been made under section 74 but who has not been enrolled in accordance with the application.

(1A) However, this section does not apply to a child in the child's pre-compulsory education period if the enrolment of the child would contravene the *Public Health Act 2016* section 141D.

(2) If in relation to a child any question arises under section 76, 77, 78 or 79 as to whether —

(a) the usual place of residence of the child is or is not —

(i) in the State; or

(ii) in a particular intake area;

or

(b) an educational programme is available or is appropriate for the child; or

(c) classroom accommodation is available; or

(d) any other criteria prescribed for the purposes of section 76(2), 77(b), 78(2)(b) or 79(1)(b), as the case requires, are satisfied,

the issue in dispute is to be decided by the chief executive officer.

(3) Where the chief executive officer decides under subsection (2) that —

(a) the usual place of residence of the child is not in an intake area for a school; or

(b) an educational programme at a school is not available or is not appropriate for the child; or

(c) classroom accommodation is not available at the school for the child; or

(d) any other criteria prescribed for the purposes of section 77(b), 78(2)(b) or 79(1)(b), as the case requires, are not satisfied in relation to the child,

the chief executive officer is to determine at which other government school (or schools if a choice is given) the child may be enrolled.

(4) The chief executive officer may make an interim decision on an issue in dispute pending the making of a final decision, and effect is to be given to the interim decision.

[Section 82 amended: No. 22 of 2005 s. 9; No. 11 of 2012 s. 40; No. 14 of 2019 s. 20.]

83. Inappropriate enrolment, CEO's powers to cancel

(1) This section applies to a child —

(a) in the child's —

(i) pre-compulsory education period; or

(ii) compulsory education period;

and

(b) who is enrolled in a government school.

(2) If in the opinion of the chief executive officer a child's enrolment should not continue because —

(a) the child's usual place of residence has changed to a place that was not in the intake area for the school at the time of the child's enrolment at the school; or

(b) an appropriate educational programme can no longer be provided at the school for the child,

the chief executive officer may —

(c) cancel the enrolment; and

(d) determine at which other government school (or schools if a choice is given) the child may be enrolled.

(3) The chief executive officer is not to cancel an enrolment under subsection (2) without first —

(a) giving notice of the proposed cancellation, and of the reasons for it —

(i) to a parent of the child; or

(ii) if the child is a prescribed child, to the child; or

(iii) to a person whose details have been provided under section 16(1)(b)(ii)(II);

and

(b) giving him or her a reasonable opportunity to show why the enrolment should not be cancelled.

(4) Subject to subsection (3), the chief executive officer is to give written notice of the cancellation to the person notified under subsection (3)(a).

(5) The cancellation takes effect at such time as is specified in the notice given under subsection (3) unless section 86(3) applies.

[Section 83 amended: No. 11 of 2012 s. 41.]

84. Decision under s. 82 or 83 as to educational programme, CEO to consider certain matters for

In determining under section 82 whether an educational programme at a school is available or is appropriate for a child or under section 83 whether an appropriate educational programme can no longer be provided at a school for a child, the chief executive officer is to take into account —

(a) the nature of the benefit or detriment likely to accrue to, or be suffered by, the child and all other persons concerned; and

(b) any additional cost involved in providing the programme for the child; and

(c) the effect of the child's —

(i) behaviour; or

(ii) disability or other condition, if any,

on the child's participation in the programme.

85. CEO may ask advisory panel for advice for s. 82 or 83 decision

Without limiting the chief executive officer's ability to obtain advice or information, he or she may obtain advice from an

advisory panel under section 241 for the purposes of any decision required to be made under section 82 or 83.

86. Child with disability, decision under s. 82 or 83 as to educational programme for

(1) Before deciding under section 82 whether an educational programme at a school is available or is appropriate for a child with a disability, or under section 83 whether an appropriate educational programme can no longer be provided at a school for a child with a disability, the chief executive officer is to —

(a) consult with the child's parents; and

(b) take into account the wishes of the child's parents, in addition to the matters specified in section 84.

(2) If the chief executive officer decides —

(a) under section 82 that an educational programme at a school is not available or is not appropriate for a child with a disability; or

(b) under section 83 that an appropriate educational programme can no longer be provided at a school for a child with a disability,

the chief executive officer is to give written notice to a parent of the child of the decision and written reasons for the decision.

(3) A decision referred to in subsection (2) is not to be given effect to —

(a) until the time for applying under subsection (4) has passed; and

(b) if an application is made, until it has been determined,

and a child's enrolment at a school is to continue until a decision referred to in subsection (2)(b) takes effect.

(4) A parent of the child may apply in writing to the chief executive officer for a review of a decision referred to in subsection (2).

(5) The application is to be made within 28 days after the applicant received written notice of the decision.

(6) Within 90 days of the chief executive officer receiving an application made under subsection (4) —

(a) the chief executive officer is to refer the matter to a Disabilities Advisory Panel under section 87; and

(b) the Panel is to examine the matter and report to the chief executive officer with its recommendation.

(7) The chief executive officer is to provide the Disabilities Advisory Panel with any information or material relating to the child's enrolment that is requested by the Panel and that is in the possession or control of the chief executive officer.

(8) The chief executive officer is, within 21 days after receiving the report, to give the applicant a copy of the report of the Disabilities Advisory Panel.

(9) The chief executive officer after considering the report may confirm, vary or reverse the decision and, within 21 days after receiving the report, is to give written notice to the applicant of the subsequent decision and written reasons for that decision.

87. Disabilities Advisory Panel, appointment of etc.

(1) The Minister is to appoint a Disabilities Advisory Panel (a ***Panel***), consisting of not less than 3 persons, whenever it is necessary for the purposes of section 86(6) or 92(3)(b).

(2) A member of a Panel for a particular matter is to be a person —

(a) who has such experience, skills, attributes or qualifications as the Minister considers appropriate to the case of the child to whom the matter relates; and

(b) who is not an employee within a class referred to in section 235(1); and

(c) who is not a parent of a child at a school to which the matter relates.

(3) The Minister is to appoint one of the members of a Panel to be the chairperson.

(4) The Minister may give directions in writing to a Panel as to its procedure and a Panel is to give the applicant an opportunity to be heard, but otherwise a Panel may determine its own procedure.

(5) Subject to the Minister's directions, the applicant is not to be represented by another person before the Panel unless the Panel otherwise determines on the ground that the process will not work effectively without that representation but nothing in this subsection prevents the applicant from being accompanied by another person when appearing before the Panel.

(6) The chief executive officer is to provide a Panel with such support services as it may reasonably require.

(7) The Minister may —

(a) direct that the members of a Panel are to be paid remuneration or allowances or both; and

(b) determine the amount of any such payments on the recommendation of the Public Sector Commissioner.

[Section 87 amended: No. 39 of 2010 s. 89.]

Division 5 — Suspension and exclusion

Subdivision 1 — Preliminary

[Heading inserted: No. 13 of 2024 s. 4.]

88. Terms used

In this Division —

(a) references to attendance in relation to a school include participation in an educational programme of the school; and

(b) references to an educational programme include an arrangement to which section 24 applies.

Subdivision 2 — Suspension and exclusion for breach of school discipline or disruptive behaviour

[Heading inserted: No. 13 of 2024 s. 5.]

89. Term used: breach of school discipline

In this Subdivision —

breach of school discipline means any act or omission that impairs the good order and proper management of the school.

[Section 89 inserted: No. 13 of 2024 s. 6.]

90. Breach of school discipline, suspension for

(1) The principal of a government school may wholly or partially suspend from attendance at the school a student who, in the principal's opinion, has committed a breach of school discipline but the principal cannot suspend a student for longer than the period prescribed by the regulations.

(2) The power conferred by subsection (1) is to be exercised in accordance with the regulations.

(3) Regulations under subsection (2) are to provide for the educational instruction to be given to a suspended student.

(4) The power conferred by subsection (1) may be exercised by a person who, or a person in a class of persons which, is authorised by the principal of the school to exercise the power if the principal is absent from duty or is otherwise unable to exercise the power.

91. Grounds for excluding student from school attendance

For the purposes of this Subdivision a student may be excluded from attendance at a government school if —

(a) he or she has committed a breach of school discipline in circumstances that —

(i) have adversely affected or threaten the safety of any person who is on the school premises or participating in an educational programme of the school; or

(ii) have caused or are likely to result in damage to property;

or

(b) his or her behaviour has disrupted the educational instruction of other students.

[Section 91 amended: No. 13 of 2024 s. 7.]

92. Procedure for excluding student from school attendance

(1) If the principal of a government school is of the opinion that there are grounds under section 91 for the exclusion of a student from attendance at the school then, subject to section 96F(2), the principal may —

(a) recommend to the chief executive officer that the chief executive officer exercise his or her powers under section 94; and

(b) put before the chief executive officer such information as the principal thinks appropriate.

(2) Upon making a recommendation to the chief executive officer, the principal is to notify the student and a parent of the student that the recommendation has been made and provide the parent with the reasons why the recommendation has been made.

(3) The chief executive officer is to refer the recommendation and other information —

(a) to a School Discipline Advisory Panel under section 93; or

(b) in the case of a child with a disability who is the subject of a recommendation for exclusion on grounds under section 91(b), to a Disability Advisory Panel under section 87,

which is to examine the matter and report to the chief executive officer, setting out comments about how the matter had been dealt with and recommendations about how the matter should be dealt with.

(4) A reference in section 87 to the applicant is to be treated, for the purposes of subsection (3)(b), as a reference to a parent of the child with a disability.

(5) In its examination under subsection (3) in relation to a student other than a child to whom subsection (3)(b) applies, a Panel is to have regard to the social, cultural, lingual, economic or geographic factors, or learning difficulties, that might be relevant to the breach of school discipline or behaviour that is the subject of the recommendation.

(6) On receipt of the report the chief executive officer may, having regard to —

(a) the material referred to in subsections (1) and (3); and

(b) any other information before the chief executive officer,

make an order under section 94 if he or she is satisfied that the student may be excluded in terms of section 91.

[Section 92 amended: No. 13 of 2024 s. 8.]

93. School Discipline Advisory Panel, appointment of etc.

(1) The Minister is to appoint a School Discipline Advisory Panel (a ***Panel***), consisting of not less than 3 persons, whenever it is necessary for the purposes of section 92(3)(a) or 96(4)(a).

(2) The members of a Panel for a particular case —

(a) are to be persons who have such experience, skills, attributes or qualifications as the Minister considers appropriate to that case; and

(b) are to include at least one person who is not an employee within a class referred to in section 235(1).

(3) At least one person on a Panel must be a parent or community representative.

(4) The Minister is to appoint one of the members of a Panel to be the chairperson but the appointee is not to be an employee within a class referred to in section 235(1).

(5) A Panel cannot deal with the case of a child if a member of the Panel is —

(a) a member of the teaching staff of the school at which the child is enrolled; or

(b) a parent of a child who is enrolled at the school at which the child is enrolled.

(6) The Minister may give directions in writing to a Panel as to its procedure and a Panel is to give the child whose case is before the Panel, the child's parents and the school's principal an opportunity to be heard, but otherwise a Panel may determine its own procedure.

(7) Subject to the Minister's directions, the child and parents referred to in subsection (6) are not to be represented by another person before the Panel unless the Panel otherwise determines on the ground that the process will not work effectively without that representation but nothing in this subsection prevents the child and parents from being accompanied by another person when appearing before the Panel.

(8) The chief executive officer is to provide a Panel with such support services as it may reasonably require.

(9) The Minister may —

(a) direct that the members of a Panel (other than an employee as defined in section 3(1) of the *Public Sector Management Act 1994*) are to be paid remuneration or allowances or both; and

(b) determine the amount of any such payments on the recommendation of the Public Sector Commissioner.

[Section 93 amended: No. 74 of 2003 s. 107(2); No. 39 of 2010 s. 89.]

94. Excluding student etc., orders as to that CEO may make

(1) The orders that may be made by the chief executive officer are —

(a) an order excluding the student from normal attendance at the school but directing him or her to attend the school for the purposes specified in the order;

(b) an order completely excluding the student from attending the school;

(c) an order directing the student to attend a specified government school or to participate in a specified educational programme;

(d) an order determining the educational instruction that the student is to be given,

or a combination of 2 or more of those orders.

(2) If an order is made under subsection (1)(a), (b) or (c) the chief executive officer is to consider making, and if necessary make, an order under subsection (1)(d) in conjunction with the other order.

(3) An order under subsection (1) —

(a) may be expressed to have effect for a specified period; and

(b) may at any time be revoked or amended by further order made by the chief executive officer.

95. Principal's power to exclude from school attendance student enrolled after compulsory education period

(1) The principal of a government school may exclude from attendance at the school —

(a) a student who is enrolled under section 81 if —

(i) the student's attendance at the school is not satisfactory; or

(ii) the student is not participating in the educational programme of the school in a way that is of benefit to his or her educational progress; or

(iii) the student has failed to comply with a requirement of any applicable code of conduct for students at the school;

and

(b) a student who is enrolled under section 81 if he or she has failed to comply with any condition imposed by the chief executive officer under that section.

(2) The powers in this section are in addition to the other powers conferred by this Subdivision.

[Section 95 amended: No. 22 of 2005 s. 10; No. 13 of 2024 s. 9.]

96. Decision under s. 95, review of

(1) A student who is excluded from attendance at a school under section 95 may apply in writing to the chief executive officer for a review of the decision.

(2) A review is limited to determining whether fair and proper procedures were followed by the principal in making the decision.

(3) The application is to be made within 7 days after the student received notice in writing of the decision.

(4) Within 28 days of the chief executive officer receiving an application made under subsection (1) —

(a) the chief executive officer is to refer the matter to a School Discipline Advisory Panel under section 93; and

(b) the Panel is to examine the matter and report to the chief executive officer with its recommendation.

(5) The chief executive officer is to provide the School Discipline Advisory Panel with any information or material relating to the application that is requested by the Panel and that is in the possession or control of the chief executive officer.

(6) The chief executive officer after considering the report and reviewing the decision in terms of subsection (2), may confirm, vary or reverse the decision and, within 14 days after receiving the report, is to give the applicant notice of that decision.

96A. Subdivision 3 not limited by this Subdivision

Nothing in this Subdivision limits the powers that may be exercised by the chief executive officer under Subdivision 3.

[Section 96A inserted: No. 13 of 2024 s. 10.]

Subdivision 3 — Suspension and exclusion of student charged with or convicted of sexual offence

[Heading inserted: No. 13 of 2024 s. 11.]

96B. Terms used

In this Subdivision —

complainant, in relation to a sexual offence, means a person against whom the sexual offence is alleged to have been committed, whether or not the allegation is finally determined by a court;

sexual offence has the meaning given in the *Parliamentary Commissioner Act 1971* section 19C.

[Section 96B inserted: No. 13 of 2024 s. 11.]

96C. References to conviction

In this Subdivision a reference to a ***conviction***, in relation to a sexual offence committed by a person, is a reference to any of the following —

(a) a court making a formal finding of guilt in relation to the sexual offence;

(b) a court convicting the person of the sexual offence, if there has been no formal finding of guilt before conviction;

(c) a court accepting a plea of guilty from the person in relation to the sexual offence.

[Section 96C inserted: No. 13 of 2024 s. 11.]

96D. Suspension of student

(1) This section applies if the circumstances referred to in section 96E(a) to (c) exist in respect of a student enrolled at a government school.

(2) The chief executive officer may give a direction in writing to the principal of the school to wholly or partially suspend the student from attendance at the school.

(3) The principal must give effect to the direction in accordance with the regulations.

(4) Regulations under subsection (3) must provide for the educational instruction to be given to a suspended student.

(5) Despite section 230(1), the function of the chief executive officer under subsection (2) cannot be delegated to another person.

[Section 96D inserted: No. 13 of 2024 s. 11.]

96E. Grounds for excluding student from school attendance

For the purposes of this Subdivision the chief executive officer may make an order under section 96G(1) in respect of a student enrolled at a government school if —

(a) the student has been —

(i) charged with a sexual offence; or

(ii) convicted of a sexual offence;

and

(b) the complainant attends the same school as the student; and

(c) the chief executive officer forms an opinion that the continued attendance of the student at the school is likely to adversely affect the complainant's —

(i) safety or welfare; or

(ii) ability to learn.

[Section 96E inserted: No. 13 of 2024 s. 11.]

96F. Procedure for excluding student from school attendance

(1) If the circumstances referred to in section 96E(a) to (c) exist, the chief executive officer must —

(a) give notice to the student and a parent of the student —

(i) informing the student and the parent of the student that the chief executive officer has formed the opinion referred to in section 96E(c); and

(ii) setting out the reasons for having formed the opinion; and

(iii) giving the student and the parent of the student a reasonable opportunity to make written or oral submissions in relation to the proposed exclusion;

and

(b) give notice to the complainant and a parent of the complainant —

(i) informing the complainant and the parent of the complainant that the chief executive officer has formed the opinion referred to in section 96E(c); and

(ii) setting out the reasons for having formed the opinion; and

(iii) giving the complainant and the parent of the complainant a reasonable opportunity to make written or oral submissions in relation to the proposed exclusion;

and

(c) notify the principal of the government school that the chief executive officer —

(i) has formed the opinion referred to in section 96E(c); and

(ii) is dealing with the matter under this Subdivision.

(2) A principal notified in accordance with subsection (1)(c) cannot deal with the matter as a breach of school discipline or disruptive behaviour under Subdivision 2.

(3) In making an order under section 96G(1), the chief executive officer must have regard to all of the following —

(a) any written or oral submissions of the student, or the parent of the student, referred to in subsection (1)(a)(iii);

(b) any written or oral submissions of the complainant, or the parent of the complainant, referred to in subsection (1)(b)(iii);

(c) the effect of the proposed order on —

(i) the student; and

(ii) the complainant;

(d) the capacity of the school to make arrangements to minimise the risk to the complainant's —

(i) safety or welfare; or

(ii) ability to learn;

(e) the availability to the student of an alternative school or educational programme.

(4) In making an order under section 96G(1), the chief executive officer may have regard to —

(a) any other matters the chief executive officer considers relevant; and

(b) without limiting paragraph (a) — any matters prescribed by the regulations.

[Section 96F inserted: No. 13 of 2024 s. 11.]

96G. Orders that CEO may make

(1) The orders that may be made by the chief executive officer are 1 or more of the following —

(a) an order excluding the student from normal attendance at the school but directing the student to attend the school for the purposes specified in the order;

(b) an order completely excluding the student from attending the school;

(c) an order directing the student to attend a specified government school or to participate in a specified educational programme;

(d) an order determining the educational instruction that the student is to be given.

(2) If an order is made under subsection (1)(a), (b) or (c) the chief executive officer must consider making an order under subsection (1)(d) in conjunction with the other order.

(3) An order under subsection (1) —

(a) may be expressed to have effect for a specified period; and

(b) may at any time be revoked or amended by further order made by the chief executive officer.

(4) Despite section 230(1), a decision by the chief executive officer to make an order under subsection (1) cannot be delegated to another person.

[Section 96G inserted: No. 13 of 2024 s. 11.]

96H. CEO must give notice of order

If the chief executive officer makes an order under section 96G(1), the chief executive officer must give notice to the student the subject of the order, and a parent of the student, setting out the reasons for making the order.

[Section 96H inserted: No. 13 of 2024 s. 11.]

96I. CEO must consider whether to revoke or amend order in certain circumstances

(1) Subsection (2) applies if —

(a) the chief executive officer makes an order under section 96G(1) in relation to —

(i) a charge as referred to in section 96E(a)(i); or

(ii) a conviction as referred to in section 96E(a)(ii);

and

(b) 1 or more of the following circumstances apply —

(i) the charge is withdrawn or the prosecution of it is discontinued;

(ii) the charge is dismissed without a finding as to whether the student is guilty or not guilty in relation to the charge;

(iii) the student is acquitted in relation to the charge other than on account of unsoundness of mind;

(iv) there is a mistrial in relation to the charge;

(v) for any other reason, the student is not brought to trial on the charge;

(vi) a conviction in relation to the charge as referred to in section 96E(a)(i), or the conviction as referred to in section 96E(a)(ii), is overturned, quashed or set aside on appeal.

(2) The chief executive officer must give proper consideration as to whether to revoke or amend the order under section 96G(3)(b).

[Section 96I inserted: No. 13 of 2024 s. 11.]

Division 6 — Financial provisions

Subdivision 1 — Fees for instruction, charges, contributions and costs

97. Terms used

In this Subdivision —

adult student means a person who enrols at a government school in a year and whose compulsory education period has ended before January in that year;

contribution means voluntary contribution;

extra cost optional component means an optional component of a government school's educational programme having a cost that is not incorporated into the determination of the school's charges or contributions under section 99 because of the high cost associated with the provision of that optional component before the end of a child's compulsory education period;

first charges payment year in relation to a student —

(a) until 31 December 2010, means the first calendar year in which the student had reached 12 years of age by the beginning of the year; and

(b) on and from 1 January 2011 until 31 December 2014, means the first calendar year in which the student had reached 12 years and 6 months of age by the beginning of the year; and

(c) on and from 1 January 2015, means the first calendar year in which the student has reached 11 years and 6 months by the beginning of the year;

overseas student means a person who enrols at a government school and who —

(a) is not entitled to reside permanently in Australia; and

(b) satisfies the criteria (if any) prescribed by the regulations for the purposes of this Subdivision.

[Section 97 amended: No. 22 of 2005 s. 11; No. 28 of 2014 s. 29.]

98. Fees for instruction and charges, limits on imposing

(1) No fee for instruction may be imposed in respect of a student for the provision of —

(a) a non-optional component of an educational programme at a government school; or

(b) an optional component of an educational programme at a government school if the instruction is provided by a member of the teaching staff,

unless the student is an overseas student or an adult student.

(2) A contribution must not be sought towards a fee referred to in subsection (1) and any agreement entered into for the payment of a fee referred to in subsection (1) has no effect.

(3) No charge may be imposed in respect of a student for —

(a) materials provided in a non-optional component of an educational programme of a government school; or

(b) services or facilities for use in, or associated with the provision of, a non-optional component of an educational programme of a government school,

before the student's first charges payment year unless the student is an overseas student.

(4) A contribution determined in accordance with section 99 may be sought for the costs of the materials, services or facilities referred to in subsection (3).

99. Charges etc. for materials, services and facilities, determining etc.

(1) Subject to subsection (2), regulations may be made providing for charges or contributions that may be made for —

(a) materials provided in —

(i) a non-optional component of an educational programme of a government school; or

(ii) an optional component of an educational programme of a government school that is not an extra cost optional component;

or

(b) services or facilities for use in, or associated with the provision of —

(i) a non-optional component of an educational programme of a government school; or

(ii) an optional component of an educational programme of a government school that is not an extra cost optional component.

(2) Regulations cannot be made providing for charges or contributions for the purchase, maintenance or replacement of equipment, furniture and fittings provided for the purposes of a government school.

(3) The principal of a government school may from time to time determine a charge or contribution —

(a) if the charge or contribution is of a kind prescribed by the regulations as able to be charged or be a contribution for the purposes of this section; and

(b) not exceeding any limit prescribed by the regulations.

(4) If the school has a Council a determination under subsection (3) does not have effect unless it has been approved by the Council.

(5) All charges or contributions for a school year must be determined under subsection (3) and approved under subsection (4) not later than 2 months before the beginning of the school year.

(6) The principal is to take reasonable steps to notify the persons —

(a) from whom may be recovered under section 106(1) the charges that are payable under this section for a school year, of those charges; and

(b) from whom a contribution may be sought, of the amount to be sought by way of contribution.

(7) Notification under subsection (6) must be given not later than 2 months before the beginning of the school year but the validity of a determination is not affected by the failure of a person to receive notice.

(8) When notifying a person for the purposes of subsection (6), it is sufficient for the principal to notify the person —

(a) of the total charges that are payable, or the total contribution to be sought, (as the case requires) for the school year in respect of the student, itemizing each component of those charges or the contribution and the charge or contribution for each component; or

(b) of the scale of charges or contribution for each —

(i) non-optional component of the school's educational programme; or

(ii) optional component of the school's educational programme that is not an extra cost optional component,

that will be available to the student in the school year.

100. Extra cost optional component of educational programme, determining cost for etc.

(1) The principal of a government school may from time to time determine the costs to be paid for participation in an extra cost optional component of the school's educational programme.

(2) The costs of an extra cost optional component must not include a fee for instruction if the instruction is provided by a member of the teaching staff.

(3) If the school has a Council a determination under subsection (1) does not have effect unless it has been approved by the Council.

(4) The costs of the extra cost optional components to be provided in a school year must be determined under subsection (1) and approved under subsection (3) not later than 2 months before the beginning of the school year.

(5) If an extra cost optional component may be participated in by a particular student, the principal is to take reasonable steps to notify —

(a) a parent of the student; or

(b) in the case of a student who has turned 18 or who is a prescribed child, the student,

of the costs of an extra cost optional component of those costs not later than 2 months before the beginning of the school year.

(6) When notifying a person for the purposes of subsection (5), it is sufficient for the principal to notify the person —

(a) by itemizing each component of those costs and the cost for each component; or

(b) of the scale of costs for each extra cost optional component that will be available to the student in the school year.

(7) The participation of a student in an extra cost optional component is conditional on payment of the costs of that component.

101. Optional components that are not extra cost optional components to be available to certain students

The principal of a government school is to ensure that optional components of the school's educational programme that are not extra cost optional components are available to students at the school —

(a) who are of compulsory school age; and

(b) who have reached their first charges payment year.

102. Charges etc. to be paid to principal

(1) The following are payable to the principal of a government school —

(a) charges determined and approved under section 99 in relation to the school; and

(b) costs of the extra cost optional components of the school's educational programme.

(2) If a person wishes to make a contribution that has been determined and approved under section 99, the contribution is to be collected by the school's principal for the purposes of the school.

103. Overseas and adult students to pay fees for instruction

A person who is an overseas student or an adult student is to pay such fees for instruction as may be prescribed and in accordance with the regulations.

104. Reduction etc. of fees etc., regulations about

Regulations may be made providing for —

(a) the reduction, waiver or refund, in whole or in part, of any fee, charge or cost provided for by this Subdivision; and

(b) deferred payment, payment by instalments or other forms of assistance for the payment of any fee, charge or cost provided for by this Subdivision.

105. Students (other than overseas and adult students) cannot be excluded for non-payment of charges

A principal of a government school must not exclude a student, other than an overseas student or an adult student, from participating in an educational programme of the school for the non-payment of a charge payable under section 99.

106. Recovering fees etc.

(1) Any fee or charge that is payable under this Subdivision in respect of a student may be recovered as a debt, if necessary in a court of competent jurisdiction —

(a) from a parent of the student; or

(b) in the case of a student who has turned 18 or who is a prescribed child, from the student.

(2) The chief executive officer is to ensure that before any administrative or legal action is taken to recover a debt under subsection (1) —

(a) inquiries have been made into the reasons for the failure to pay the fee or charge; and

(b) all reasonably practicable steps have been taken to recover the fee or charge; and

(c) the circumstances of the person against whom the action is proposed to be taken and the person's capacity to pay have been taken into account.

107. Agreements to pay costs not affected

Nothing in this Subdivision prevents a person —

(a) subject to section 98(2) from agreeing to pay money for or towards the cost of providing an educational programme for a student; or

(b) from agreeing to pay money for or towards the cost of a school based activity beyond the school's educational programme; or

(c) from enforcing an agreement referred to in paragraph (a) or (b).

108. Items to be supplied by student for personal use in educational programme, determining etc.

(1) The principal of a government school may from time to time determine the items that are to be supplied by a student for the student's personal use in the school's educational programme.

(2) If the school has a Council a determination under subsection (1) does not have effect unless it has been approved by the Council.

(3) All items to be supplied by a student for a school year must be determined under subsection (1) and approved under subsection (2) not later than 2 months before the beginning of the school year.

(4) If a particular student is to supply any item under this section, the principal is to take reasonable steps to notify —

(a) a parent of the student; or

(b) in the case of a student who has turned 18 or who is a prescribed child, the student,

of each item to be supplied not later than 2 months before the beginning of the school year.

Subdivision 2 — School funds

109. General Purposes Fund, each school has

Each government school is to have a fund to be called the "(name of the school) General Purposes Fund".

110. Funds for donations etc., establishing

The chief executive officer may authorise the principal of a government school to establish funds for the receipt of donations and bequests for or towards —

(a) the addition of new capital works to the school premises; or

(b) the benefit of the school library; or

(c) the benefit of the school generally.

111. Management of school funds

(1) The management of a school fund is to be vested in the principal unless some other officer is designated by the chief executive officer to perform that function at the school.

(2) The chief executive officer may amend, revoke or replace a designation under subsection (1).

(3) Moneys forming part of a school fund may only be expended by or with the authority of the principal or the other person designated under subsection (1) and in accordance with —

(a) the regulations; and

(b) any directions (not being inconsistent with the regulations) issued by the chief executive officer either generally or in any particular case.

(4) However —

(a) money paid under a licence to which section 218 applies as a security for the performance of an obligation may only be applied in accordance with the licence; and

(b) subsection (3) only applies to that money if the money has been forfeited under, and in accordance with, the licence.

112. Money to be credited to General Purposes Fund etc.

(1) There are to be credited to the General Purposes Fund of a school —

(a) moneys from time to time allocated to the school from funds appropriated by Parliament; and

(b) grants and advances to the school from government and private sources; and

(c) charges, contributions and costs collected for the purposes of the school and any fees that, in accordance with regulations, are to be payable to the principal of the school; and

(d) moneys payable to the school under section 220 or 221; and

(e) the proceeds of any investment of the General Purposes Fund under section 115; and

(f) subject to subsection (2), other moneys properly receivable for the purposes of the school.

(2) There are to be credited to a fund established for a school under section 110 —

(a) donations and bequests to the school for the purpose for which the fund was established; and

(b) the proceeds of any investment of the fund under section 115.

113. Bank account for school funds

(1) Moneys forming part of a school fund are to be paid into an account at a bank approved by the chief executive officer.

(2) A government school is to have only one such bank account for each school fund except to the extent that the chief executive officer approves otherwise.

(3) The bank account or accounts may only be operated jointly by —

(a) the principal; and

(b) one or more office-holders, or persons belonging to a class, designated under subsection (4).

(4) The chief executive officer is to designate for each government school the office-holders or class of persons who may act under subsection (3)(b).

(5) In this section —

bank means —

(a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or

(b) a bank constituted by a law of a State, a Territory or the Commonwealth.

[Section 113 amended: No. 74 of 2003 s. 107(3).]

114. *Financial Management Act 2006* s. 8 and 34, application of to s. 109 to 113

Sections 109 to 113 have effect despite sections 8 and 34 of the *Financial Management Act 2006*, but nothing in sections 109 to 113 is to be read as affecting the responsibilities of the chief executive officer as accountable authority under that Act in respect of moneys referred to in section 112.

[Section 114 amended: No. 77 of 2006 s. 6 and Sch. 1 cl. 154(1).]

115. Investment of school funds

Moneys forming part of a school fund may, until required to be paid out under section 111, be invested in the name of the school by —

(a) the principal; or

(b) the other person designated under section 111(1),

in the manner in which money standing to the credit of the Public Bank Account may be invested under section 37 of the *Financial Management Act 2006*.

[Section 115 amended: No. 77 of 2006 Sch. 1 cl. 154(2).]

116. Closure etc. of school, how school funds to be dealt with in case of

(1) If a school is closed or amalgamated with another school —

(a) subject to subsection (2), moneys in a school fund are to be dealt with as the chief executive officer may direct; and

(b) the bank account for the fund may be operated by the chief executive officer for the purpose of giving effect to such a direction.

(2) However —

(a) money paid under a licence to which section 218 applies as a security for the performance of an obligation may only be applied in accordance with the licence; and

(b) subsection (1)(a) only applies to that money if the money has been forfeited under, and in accordance with, the licence.

Division 7 — Other management provisions

117. School year for government schools, how determined

(1) The chief executive officer, by order published in the *Government Gazette*, is to determine the days in each year on

which government schools are to be open for educational instruction of students.

(2) An order that makes or includes such a determination for any year must be published in the *Government Gazette* at least 3 years before the beginning of that year.

(3) Section 43(4) and (7) to (9) of the *Interpretation Act 1984* apply to an order under this section as if the order were regulations.

(4) An order under this section made within 3 months of the commencement of this Act need not comply with subsection (2).

118. Disputes and complaints, regulations for dealing with

(1) Regulations may be made providing for means by which disputes or complaints about —

(a) the provision of education; or

(b) the conduct of any member of the teaching staff,

in government schools may be dealt with.

(2) Regulations of the kind mentioned in subsection (1) may —

(a) confer authority on the chief executive officer to make provision, by instrument published in the *Government Gazette*, for a scheme for dealing with disputes and complaints; and

(b) confer protection on persons in respect of statements made or information given; and

(c) provide for the powers that may be exercised in connection with the investigation and resolution of disputes and complaints.

119. School premises, regulations for management etc. of

(1) Regulations may be made making provision in relation to premises used for or in connection with government schools including buildings and other things erected or standing on those premises (***school premises***).

(2) Regulations of the kind mentioned in subsection (1) may provide for —

(a) persons who may enter or remain on school premises and the purposes for which and circumstances in which they may do so; and

(b) what may be brought on to school premises; and

(c) the times when and purposes for which school premises are to be open or closed; and

(d) the payment of fees or charges for the use of school premises other than for school activities; and

(e) the closure of the whole or part of school premises for the safety and protection of the premises and persons in the vicinity of the premises; and

(f) the maintenance of good order on school premises; and

(g) the conduct of persons on school premises and things that they are not permitted to have in their possession; and

(h) the parking and standing of vehicles; and

(i) the prohibition or use of vehicles and the regulation of traffic on school premises; and

(j) the conferral on school officials of powers —

(i) to require a person on school premises to give his or her name and address; and

(ii) to prohibit a person from entering school premises; and

(iii) to remove property from school premises, move property within the premises, and recover the attendant cost and expenses; and

(iv) to take possession of property on school premises that appears to be lost, discarded or disused and, subject to any prescribed requirements for notice to be given, to dispose of the property as being the property of the department.

120. Non-student disrupting school etc., powers to deal with

(1) If an authorised person reasonably suspects that a person who is not a student at a government school —

(a) has substantially disrupted, or is likely to substantially disrupt, the discipline of students or the good order of the school; or

(b) has used threatening, abusive or insulting language towards a teacher acting in an official capacity,

the authorised person may require the person to —

(c) state his or her name and address; and

(d) leave the school premises, and remain away from those premises for the following 24 hours.

(2) A person must not —

(a) fail to comply with a requirement directed to him or her under subsection (1); or

(b) when required to state his or her name and address, give any false or misleading information.

Penalty: a fine of $5 000.

(3) An authorised person may —

(a) detain a person who has contravened subsection (2) until the person can be delivered to a police officer; and

(b) use the help of other persons as is necessary for that purpose.

(4) Reasonable force may be used in the exercise of the powers conferred by subsection (3).

(5) In this section —

authorised person in relation to a government school means —

(a) the principal of the school; or

(b) a person authorised by the chief executive officer to exercise the powers conferred by this section in respect of that school; or

(c) a person who belongs to a class of persons so authorised.

[Section 120 amended: No. 50 of 2003 s. 94(2); No. 28 of 2014 s. 35.]

121. Certain information not to be disseminated on school premises

(1) A person must not on the premises of a government school give to students, whether orally or in writing, information —

(a) to which this section applies; and

(b) which is not part of the educational programme of the school,

if the purpose of doing so is to impress a particular viewpoint or message on the minds of the students.

Penalty: a fine of $2 000.

(2) This section applies to information that —

(a) is intended to generate support for a political party; or

(b) advertises any commercial goods, product or service, except as allowed under section 216(2)(d); or

(c) promotes a particular denomination or sect, except as allowed under section 69; or

(d) advocates the case of a party to an industrial dispute, including the chief executive officer.

(3) The principal of a government school —

(a) is to take all reasonable steps to ensure that subsection (1) is complied with; and

(b) may confiscate any written material that is on the school premises in contravention of that subsection.

(4) In this section —

student means a student enrolled at a government school who is on school premises at a time when —

(a) the student is required to attend the school as part of an educational programme at the school; or

(b) the student is otherwise participating in an educational programme of the school; or

(c) the student is on school premises in preparation for, or subsequent to, being at the school for a reason referred to in paragraph (a) or (b).

[Section 121 amended: No. 28 of 2014 s. 35.]

122. Parent on s. 19 register, principal etc. may deal with exclusively

(1) The principal of, or a teacher at, a government school may notify information about a student to a person who is shown in the register referred to in section 19 as a parent of the student without being concerned —

(a) to inquire whether there is any other person who in relation to the child may be within the definition of ***parent*** in section 4; or

(b) to notify the information to another person whom he or she knows to be within that definition.

(2) If a person who is shown in the register referred to in section 19 as a parent of a student gives to the principal of, or a teacher at, a government school an authorisation or direction in relation to the student, the principal or teacher is not concerned —

(a) to inquire whether there is any other person who in relation to the child may be within the definition of ***parent*** in section 4; or

(b) to obtain a like authorisation or direction from another person whom he or she knows to be within that definition.

(3) Nothing in this section affects the operation and enforcement of a Family Court order.

123. General management of schools, regulations for

(1) Regulations may be made for the general management of government schools.

(2) Without limiting subsection (1) regulations may be made —

(a) for the discipline of students and the powers of principals in that respect; and

(b) prescribing the hours for the instruction of students in government schools.

Division 8 — Parent and community involvement

Subdivision 1 — School Councils

124. Terms used

In this Subdivision —

incorporated association has the same meaning as in the *Associations Incorporation Act 2015* section 3;

school means a government school and includes, where section 125(2) applies, all relevant government schools.

[Section 124 amended: No. 30 of 2015 s. 228(2).]

125. Each government school to have Council for school

(1) A government school is to have a Council unless it is exempted by the Minister under section 126.

(2) It is sufficient compliance with subsection (1) for 2 or more government schools, with the approval of the Minister, to have one Council that operates for those schools jointly.

126. Exemptions from and approvals for s. 125

(1) The Minister may by order published in the *Government Gazette* —

(a) exempt a school from the requirements of section 125(1) if the Minister is satisfied that it is not necessary for the school to have a Council —

(i) because of its size or nature; or

(ii) because the functions to be performed by a Council can be provided by some other means;

and

(b) give an approval for the purposes of section 125(2); and

(c) at any time revoke an order and specify a time by which the school is to comply with section 125(1).

(2) The Minister may —

(a) make an exemption or approval subject to any condition; and

(b) impose any further condition or vary or revoke a condition at any time.

127. Council, members of etc.

(1) The membership of a Council for a school is to be drawn from —

(a) the parents of students at the school except where the majority of the students at the school are 18 years of age or more; and

(b) other members of the general community; and

(c) the staff of the school; and

(d) where the school is of a prescribed class, students at the school, but no student under 18 years of age can be a member of an incorporated Council.

(2) The principal for the time being of a school is automatically a member of the Council for that school.

(3) A person who —

(a) is the principal of, or on the staff of, a school which has a Council; and

(b) is also a person described in subsection (1)(a) or (b),

can only be a member of the Council in his or her capacity as the principal or a staff member.

(4) Persons referred to in subsection (1)(a) and (b) must form the majority of members of a Council.

(5) Subject to this section —

(a) the procedure for the establishment of Councils; and

(b) the number of members and composition of Councils; and

(c) the manner in which persons become members; and

(d) the term of office of members; and

(e) matters relating to ineligibility for, and cessation or termination of, membership,

are to be as prescribed by the regulations.

(6) The Chairperson of the Council is to be elected by and from its members.

128. Council, functions of

The functions of a Council for a school are —

(a) to take part —

(i) in establishing, and reviewing from time to time, the school's objectives, priorities and general policy directions; and

(ii) in the planning of financial arrangements necessary to fund those objectives, priorities and directions; and

(iii) in evaluating the school's performance in achieving them;

and

(b) to promote the school in the community; and

(c) to take part in formulating codes of conduct for students at the school; and

(d) to determine, in consultation with students, their parents and staff of the school, a dress code for students when they are attending or representing the school; and

(e) to carry out the functions given by sections 70, 99(4), 100(3), 108(2) and 216(5); and

(f) to undertake such other functions prescribed by the regulations for the purposes of this section.

129. Additional functions of Council, Minister may approve

(1) This section applies to any Council.

(2) With the approval of the Minister, a Council for a school may —

(a) take part in the selection of, but not the appointment of, the school principal or any other member of the teaching staff; and

(b) carry out any other function prescribed by the regulations for the purposes of this section.

(3) An approval is only to be given for the purposes of subsection (2) if the Minister is of the opinion that it will be in the best interests of the students that the Council have the function to which the approval relates.

(4) The Minister may —

(a) make an approval subject to any condition; and

(b) at any time —

(i) impose any further condition or vary or revoke a condition; or

(ii) revoke an approval.

[Section 129 amended: No. 41 of 2016 s. 10.]

130. Additional functions of incorporated Council, Minister may approve

(1) Regulations may be made prescribing functions that a Council may perform only if it has the approval of the Minister in terms of subsection (2).

(2) An approval referred to in subsection (1) is to be given by the Minister only if in his or her opinion the performance by the Council of the function to which the approval relates will —

(a) improve an educational programme of the school or the management of the school's facilities; and

(b) be in the best interests of the students.

(3) An approval referred to in subsection (1) —

(a) is to be conditional on the Council —

(i) having a constitution containing provisions approved by the Minister; and

(ii) becoming an incorporated association under the *Associations Incorporation Act 2015* within a period specified by the Minister;

and

(b) does not have effect until those conditions are satisfied; and

(c) may be subject to any other condition.

(4) The Minister may at any time —

(a) impose any further condition or vary or revoke a condition; or

(b) revoke an approval.

(5) While any approval is in force any change to the constitution of the Council, other than an amendment to this Act or the regulations, or any substituted constitution is of no effect until it has been approved by the Minister.

[Section 130 amended: No. 30 of 2015 s. 228(7).]

131. Property acquired by incorporated Council vests in Minister

All property acquired by an incorporated Council for the use of a school is acquired for the purposes of this Act; and section 215 applies to it whether or not public moneys were spent on its acquisition.

132. Council cannot intervene in certain matters

A Council cannot —

(a) intervene in the control or management of a school unless —

(i) the Council is one to which section 130 applies; and

(ii) the intervention is by way of performing a function prescribed for the purposes of section 130;

or

(b) intervene in the educational instruction of students; or

(c) exercise authority over teaching staff or other persons employed at the school; or

(d) intervene in the management or operation of a school fund.

133. Powers of Council

A Council may do all things necessary or convenient to be done for or in connection with the carrying out of its functions.

134. Support services for Council, principal to provide

The principal of a school is to provide the school's Council with such support services as it may reasonably require.

135. Minister may direct Council

(1) The Minister may give directions in writing to a Council with respect to the performance of its functions, either generally or in relation to a particular matter, and the Council is to give effect to any such direction.

(2) A direction under subsection (1) may require a Council to comply with a specified instruction or class of instructions issued by the chief executive officer under section 233.

136. Procedures of Council

Subject to this Act, a Council is to determine its own procedures.

137. Protection from personal liability

(1) An action in tort does not lie against a person for anything that the person has done in good faith as a member of a Council.

(2) Subsection (1) does not relieve a Council that is an incorporated association of any liability that it might have for the doing of anything referred to in that subsection.

(3) In this section, a reference to the doing of anything includes a reference to the omission to do anything.

[Section 137 amended: No. 30 of 2015 s. 228(3).]

138. Minister may dismiss unincorporated Council

(1) This section does not apply to a Council that by operation of section 130 is an incorporated association.

(2) If in the opinion of the Minister the conduct of a Council is incompetent, inadequate or improper or a Council is in breach of this Act, the Minister is to give written notice to the Council —

(a) setting out particulars of the allegations against it; and

(b) requiring that the situation be remedied within the time specified in the notice.

(3) If the Minister is of the opinion that a Council has not complied with a notice under subsection (2) the Minister may, by order published in the *Government Gazette*, dismiss the Council.

(4) An order under subsection (3) may make any supplementary or incidental provision that the Minister considers is necessary to allow the dismissal to have effect with the least inconvenience to the school, the students at the school and their parents and the staff of the school.

(5) Provision may be made under subsection (3) —

(a) for ownership of the Council's documents and records; and

(b) for custody of them to be given to a specified person or persons.

[Section 138 amended: No. 74 of 2003 s. 107(4); No. 30 of 2015 s. 228(4).]

139. Incorporated Council, winding up

(1) A Council that, by operation of section 130, is an incorporated association may, if the Council is in breach of this Act or the conduct of the Council is incompetent, inadequate or improper, be wound up by the Supreme Court on the application of the Minister.

(2) The *Associations Incorporation Act 2015* applies to a Council for the purposes of subsection (1) as if the grounds referred to in that subsection were specified in Schedule 4 to that Act as grounds for winding up.

(3) This section is in addition to, and does not limit, the application of the *Associations Incorporation Act 2015* to a Council that is an incorporated association.

[Section 139 amended: No. 30 of 2015 s. 228(5), (6) and (7).]

140. Regulations about Councils

Without limiting section 127(5), 129(2)(b) or 130, regulations may be made in respect of the functions, powers and duties of Councils and in particular —

(a) enabling Councils to co-opt members of the local community as members of Councils and prescribing the capacity in which they may be co-opted provided that no co-opted member shall have any voting rights on the Council to which she or he is co-opted; and

(b) enabling Councils to allow students to attend meetings and take part in discussion but without having a right to vote or being counted in determining a quorum; and

(c) with respect to the proceedings of Councils; and

(d) providing in relation to a school dress code referred to in section 128(d) —

(i) for the matters which may, or cannot, be provided for in a code; and

(ii) for the procedures to be followed by a Council in the formulation and approval of a code; and

(iii) enabling the principal of a school to exempt a student at the school from complying with any requirement of a code approved by the school's Council.

Subdivision 2 — Parents and Citizens' Associations

141. Terms used

In this Subdivision —

association, except in section 149, means a Parents and Citizens' Association formed under section 142;

incorporated association has the same meaning as it has in the *Associations Incorporation Act 2015*.

[Section 141 amended: No. 30 of 2015 s. 228(7).]

142. Forming association

Parents and other persons who are interested in the welfare of a government school or a group of government schools may, in accordance with this Subdivision, form a Parents and Citizens' Association for that school or that group of schools.

143. Objects of and limits on associations

(1) The objects of an association are to promote the interests of the school or group of schools for which it is formed through —

(a) cooperation between parents, teachers, students and members of the general community; and

(b) assisting in the provision of resources, facilities and amenities for the school or schools; and

(c) the fostering of community interest in educational matters.

(2) An association cannot —

(a) intervene in the control or management of a school; or

(b) intervene in the educational instruction of students; or

(c) exercise authority over teaching staff or other persons employed at the school.

(3) An association is not to expend its funds that are in excess of administrative costs otherwise than for the benefit of students at a government school.

(4) The constitution of an association must at all times be consistent with this section.

144. Property acquired by association vests in Minister

All property acquired by an association for the use of a school or group of schools is acquired for the purposes of this Act; and section 215 applies to it whether or not any public moneys were spent on its acquisition.

145. Association formed after 1 Jan 2001, incorporation of

(1) This section applies to an association formed after the commencement of this Division.

(2) An association is to become an incorporated association within 3 months after it is formed.

(3) An association is not to apply for incorporation under the *Associations Incorporation Act 2015* unless the Minister has first approved the provisions of the proposed constitution.

(4) No provision in an association's constitution has effect until it has been approved by the Minister.

(5) While any approval is in force any change to an association's constitution or any substituted constitution is of no effect until it has been approved by the Minister.

[Section 145 amended: No. 30 of 2015 s. 228(7).]

146. Transitional provisions for association existing at 1 Jan 2001

(1) This section applies to an association to which clause 21 of Schedule 1 applies.

(2) An association that is not incorporated at the commencement of this Division is to become an incorporated association within 2 years from that commencement.

(3) An association referred to in subsection (2) is not to apply for incorporation under the *Associations Incorporation Act 1987* unless the Minister has first approved the provisions of the proposed constitution.

(4) No provision in the constitution of an association referred to in subsection (2) has effect until it has been approved by the Minister.

(5) An association —

(a) that is referred to in subsection (2); or

(b) that is an incorporated association at the commencement of this Division,

is not to apply under the *Associations Incorporation Act 1987* to change or substitute its constitution unless the Minister has first approved the proposed change or substituted constitution.

(6) Any change to an association's constitution or any substituted constitution is of no effect until it has been approved by the Minister.

147. Association to give certain information to principal

An association for a school or a group of schools must —

(a) before 30 April in each year notify the principal of the school, or of each of the schools, in writing of the names of the persons who as at 1 April in that year are office-bearers or committee members of the association; and

(b) give to the principal of the school, or of each of the schools, a copy of the audited annual financial statements of the association as soon as is practicable after those statements have been approved by the association.

148. Winding up association

(1) An association that is in breach of this Act may be wound up by the Supreme Court on the application of the Minister.

(2) The *Associations Incorporation Act 2015* applies to an association for the purposes of subsection (1) —

(a) whether or not the association is an incorporated association; and

(b) as if a breach referred to in subsection (1) were specified in Schedule 4 to that Act as a ground for winding up,

but in the case of an association that is not an incorporated association, the application of that Act is limited to the purposes of subsection (1).

(3) In the case of an association that is an incorporated association, this section is in addition to, and does not limit, the application of the *Associations Incorporation Act 2015* to the association.

[Section 148 amended: No. 30 of 2015 s. 228(6) and (7).]

149. Other associations, forming etc.

(1) Nothing in this Subdivision prevents the formation and carrying on of any other association, in relation to a government school or group of schools, that has as its object or one of its objects the promotion of the interests of the school or the group of schools or students at the school or the groups of schools either generally or in any particular respect.

(2) An association referred to in subsection (1) is not to have a name that is likely to be misunderstood as referring to an association to which section 142 applies.

(3) If the Minister is of the opinion that an association referred to in subsection (1) —

(a) is being carried on in a way that is not in the interests of the school; or

(b) has a name that contravenes subsection (2),

he or she may give directions in writing to the persons who manage the affairs of the association as to any matter relating to the name, constitution, objects or management of the association.

(4) A person to whom a direction is given under subsection (3) must take all steps reasonably available to him or her to comply with it.

Penalty: a fine of $500.

(5) If any such direction is not complied with, the association may, on the ground of that non-compliance, be wound up by the Supreme Court on the application of the Minister; and section 148(2) and (3) apply for that purpose with all necessary changes.

[Section 149 amended: No. 28 of 2014 s. 35.]

Part 4 — Non-government schools

What this Part is about

This Part requires non-government schools to be registered and makes various provisions about their operation and funding.

In particular it deals with —

- advance determinations about proposals to establish, or make certain changes to, non-government schools (school planning proposals) (Division 3A);
- registration of non-government schools (Division 3B);
- review of decisions about advance determinations or registration (Division 3C);
- recognition of groups of registered schools (school systems) and agreements between the Minister and the governing body of a school system about the operation of schools in the group (Division 3);
- inspection of registered schools (Division 4);
- the allocation of funds appropriated by Parliament for registered schools (Division 5);
- loans to registered schools or school systems for capital works (Division 6).

Division 1 — Preliminary

150. Terms used

In this Part, unless the contrary intention appears —

advance determination means an advance determination made under section 157B(1);

certificate of registration, in relation to a school, means a certificate of registration issued to the governing body of the school under section 162(1) or (2);

condition means a condition imposed on the registration of a school under section 165(1);

direction means a direction given to the governing body of a registered school under section 166(1);

governing body means —

(a) in relation to a proposed school, the person or body of persons that has the ownership, management or control of the proposed school; and

(ba) in relation to a registered school, the person or body of persons that is recorded in the register as the governing body of the school; and

(b) in relation to a system of non-government schools, the person or body of persons that is specified as the governing body of the system in an order made under section 169;

non-system school means a registered school that is not a member of a school system;

quality improvement notice means a notice given under section 165A(1);

register means the register of non-government schools kept under section 161;

registered school means a school registered under section 160;

registration change, in relation to a registered school, means a change to, or in relation to, any of the things listed in section 161(1);

school planning proposal has the meaning given in section 156;

school system means a school system that is recognized under section 169;

significant registration change has the meaning given in section 156(b);

student record, in relation to a student, means all of the following —

(a) any information in respect of the student that is shown on the register referred to in section 19;

(b) any record in respect of the student that is kept under section 28;

(c) any student record, as defined in the *School Curriculum and Standards Authority Act 1997* section 19A(1), in respect of the student;

system agreement means an agreement under section 173;

system school means a registered school that is a member of a school system.

[Section 150 amended: No. 28 of 2014 s. 4.]

151. Term used: chief executive officer

References in this Part to the chief executive officer are to the chief executive officer appointed under section 45 of the *Public Sector Management Act 1994* for the department principally assisting the Minister in the administration of this Part.

152. Delegation by chief executive officer

(1) The chief executive officer may, by instrument, delegate to an officer of the department the performance of any of the functions conferred on the chief executive officer by this Act except this power of delegation.

(2) A delegation may be general or as otherwise provided by the instrument of delegation.

(3) Where an officer performs a function of the chief executive officer he or she is to be taken to do so in accordance with the terms of a delegation under this section, unless the contrary is shown.

(4) Performance of a function by an officer under this section is to be treated as performance by the chief executive officer.

153. Minister may direct chief executive officer

(1) The Minister may give directions in writing of a general nature to the chief executive officer with respect to the performance of the chief executive officer's functions under this Part and the chief executive officer is to give effect to any such direction.

(2) The Minister must not under subsection (1) give a direction with respect to the performance of the chief executive officer's functions —

(a) under Division 3B; or

(b) in respect of a particular person, governing body or school.

(3) A copy of a direction given under subsection (1) must —

(a) within 14 days after the direction is given, be laid before each House of Parliament or dealt with under subsection (4); and

(b) be included in the annual report of the department submitted under the *Financial Management Act 2006* Part 5.

(4) The Minister must transmit a copy of the direction to the Clerk of a House of Parliament if —

(a) at the commencement of the period referred to in subsection (3)(a) the House is not sitting; and

(b) the Minister is of the opinion that the House will not sit during that period.

(5) A copy of a direction transmitted to the Clerk of a House is to be regarded as having been laid before that House.

(6) The laying of a copy of a direction that is regarded as having occurred under subsection (5) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the receipt of the copy by the Clerk.

[Section 153 amended: No. 28 of 2014 s. 5.]

Division 2 — Offences

[Heading inserted: No. 28 of 2014 s. 6.]

154. Establishing or conducting an unregistered school

(1) A person must not establish or conduct a school for the education of children unless the school is registered under section 160.

Penalty: a fine of $10 000 and a daily penalty of $200.

(2) In subsection (1) —

school does not include —

(a) a government school; or

(b) a community kindergarten registered under Part 5; or

(ca) a child care service as defined in the *Child Care Services Act 2007* section 4; or

(cb) an education and care service as defined in the *Education and Care Services National Law (WA)* section 5(1); or

(c) an establishment of a kind prescribed by the regulations.

[Section 154 amended: No. 22 of 2005 s. 12; No. 11 of 2012 s. 42; No. 28 of 2014 s. 7; No. 2 of 2026 s. 102.]

155. Making false representations

A person must not falsely represent that —

(a) an establishment is registered under section 160; or

(b) enrolment in an establishment satisfies the requirements of section 9(1); or

(c) an advance determination is in force in relation to an establishment.

Penalty: a fine of $10 000.

[Section 155 inserted: No. 28 of 2014 s. 8.]

156A. Schools to be conducted in accordance with registered information

The governing body of a registered school must ensure that the school —

(a) is not conducted under a name other than the name recorded in the register in respect of the school; and

(b) is not conducted from any place other than the school premises recorded in the register in respect of the school; and

(c) does not provide a year level of education other than a year level of education recorded in the register in respect of the school; and

(d) does not provide a curriculum other than a curriculum recorded in the register in respect of the school.

Penalty: a fine of $10 000 and a daily penalty of $100.

[Section 156A inserted: No. 28 of 2014 s. 8.]

156B. Notice to be given to CEO about changes to governing bodies of schools

(1) The governing body of a registered school must give written notice, in accordance with subsection (2), to the chief executive officer if —

(a) there is a change to the constitution of the governing body, whether by the amendment or substitution of the constitution; or

(b) there is a change to the membership of the governing body.

Penalty: a fine of $5 000.

(2) Notice is to be given no later than 30 days after the change is made and is to be accompanied by —

(a) if subsection (1)(a) applies — a copy of the amendment to the constitution or the substituted constitution; and

(b) if subsection (1)(b) applies — a list of the names of any new members and of any persons who are no longer members.

[Section 156B inserted: No. 28 of 2014 s. 8.]

156C. Minister or CEO may require information about registered schools

(1) The Minister or the chief executive officer may, by notice in writing, require the governing body of a registered school to provide, within the period specified in the notice —

(a) statistical, educational and financial information about the school; and

(b) any other information about the school relating to any matter referred to in section 159 or 160.

(2) The period specified in the notice must not be less than 14 days from receipt of the notice.

(3) A governing body must comply with a notice given to it under this section.

Penalty: a fine of $5 000.

[Section 156C inserted: No. 28 of 2014 s. 8.]

Division 3A — School planning proposals require an advance determination

[Heading inserted: No. 28 of 2014 s. 8.]

156. What is a school planning proposal

A ***school planning proposal*** is a proposal —

(a) to establish a non-government school; or

(b) to make a registration change to a registered school that is of a kind prescribed by the regulations (a ***significant registration change***).

[Section 156 inserted: No. 28 of 2014 s. 8.]

157A. Application for advance determination

(1) An application may be made to the Minister for an advance determination about a school planning proposal.

(2) An application is to —

(a) be made in writing at least 18 months, or such shorter period as may be approved by the Minister, before it is intended to implement the school planning proposal; and

(b) be made in a form approved by the Minister; and

(c) be accompanied by the prescribed fee, if any.

(3) An application is to be made by the governing body of the school or proposed school.

(4) The Minister may, in writing, request the governing body to provide the Minister with such further information relevant to the application as the Minister requires.

(5) The Minister may refuse to consider an application if the governing body does not comply with a request made under subsection (4).

[Section 157A inserted: No. 28 of 2014 s. 8.]

157B. Minister may make advance determination

(1) The Minister is to make an advance determination, on an application under section 157A, if the Minister is satisfied that the school planning proposal is satisfactory taking into account the policy direction issued under section 157C.

(2) The Minister is to specify in an advance determination the day on which the determination will expire.

(3) An advance determination is in force until the expiry day specified in the determination.

(4) If the Minister is not satisfied as described in subsection (1), the Minister is to refuse to make an advance determination.

[Section 157B inserted: No. 28 of 2014 s. 8.]

157C. Policy direction for advance determinations

(1) The Minister is to issue a policy direction in respect of the making of advance determinations.

(2) In preparing a policy direction the Minister is to —

(a) have regard to the need for diversity of schools and educational choices; and

(b) address the potential for adverse effects on existing schools; and

(c) address how previously made advance determinations that are in force in respect of schools, and proposed schools, are to be taken into account; and

(d) address the need for consultation, in accordance with procedures prescribed by the regulations, about school planning proposals; and

(e) take into account such other matters as the Minister thinks fit.

(3) A policy direction —

(a) is to be published —

(i) in the *Gazette*; and

(ii) by any other means (including on the Internet) that the Minister thinks fit;

and

(b) takes effect —

(i) on the day it is published in the *Gazette*; or

(ii) if a later day is stated in the direction, on that day.

(4) A policy direction may be amended or repealed by a subsequent policy direction issued by the Minister.

(5) Subsection (2) applies to and in relation to the amendment of a policy direction.

(6) Subsection (3) applies to and in relation to the amendment or repeal of a policy direction.

[Section 157C inserted: No. 28 of 2014 s. 8.]

157. Notice to be given about decisions on advance determinations

(1) The Minister is to notify an applicant in writing —

(a) of a decision to make, or refuse to make, an advance determination; and

(b) if the decision is to refuse to make an advance determination, of the reasons for the decision.

(2) Notification is to be given as soon as is practicable after the decision is made, but in any event not later than 6 months after the application is made.

[Section 157 inserted: No. 28 of 2014 s. 8.]

Division 3B — Registration of non-government schools

[Heading inserted: No. 28 of 2014 s. 8.]

Subdivision 1 — Applications and requirements

[Heading inserted: No. 28 of 2014 s. 8.]

158A. When advance determination required before making application under this Division

(1) An advance determination must be in force in respect of a proposal to establish a non-government school when an application is made under section 158 for the registration of an establishment as a non-government school.

(2) An advance determination must be in force in respect of a proposal to make a significant registration change to a registered school when an application is made under section 159B for that change to be made to, or in relation to, the school.

[Section 158A inserted: No. 28 of 2014 s. 8.]

158. Application for registration

(1) An application may be made to the chief executive officer for the registration of an establishment as a non-government school.

(2) An application is to —

(a) be made in writing at least 6 months before the day from which registration is sought; and

(b) be made in a form approved by the chief executive officer; and

(c) be accompanied by —

(i) a copy of the advance determination referred to in section 158A(1); and

(ii) a statement to the effect that there has been no material change to the information provided under section 157A in relation to the advance determination;

and

(d) be accompanied by the prescribed fee, if any.

(3) An application is to be made by the governing body of the proposed school.

(4) The chief executive officer may, in writing, request the governing body to provide the chief executive officer with such further information relevant to the application as the chief executive officer requires.

(5) The chief executive officer may refuse to consider an application if the governing body does not comply with a request made under subsection (4).

[Section 158 inserted: No. 28 of 2014 s. 8.]

159A. Application for renewal of registration

(1) An application may be made to the chief executive officer for the renewal of the registration of a non-government school.

(2) A registration change cannot be made on an application under this section, unless it is an application referred to in section 172(2).

(3) An application is to —

(a) be made in writing at least 6 months but not more than 12 months before the current period of registration will end; and

(b) be made in a form approved by the chief executive officer; and

(c) be accompanied by the prescribed fee, if any.

(4) An application is to be made by the governing body of the school.

(5) The chief executive officer may, in writing, request the governing body to provide the chief executive officer with such further information relevant to the application as the chief executive officer requires.

(6) The chief executive officer may refuse to consider an application if the governing body does not comply with a request made under subsection (5).

[Section 159A inserted: No. 28 of 2014 s. 8.]

159B. Application for registration change

(1) An application may be made to the chief executive officer for a registration change in respect of a registered school.

(2) An application is to —

(a) be made in writing at least 6 months, or such shorter period as may be approved by the chief executive

officer, before it is intended to implement the change; and

(b) be made in a form approved by the chief executive officer; and

(c) be accompanied by the prescribed fee, if any.

(3) If the application is in respect of a significant registration change, it is to be accompanied by —

(a) a copy of the advance determination referred to in section 158A(2); and

(b) a statement to the effect that there has been no material change to the information provided under section 157A in relation to the advance determination.

(4) An application is to be made by the governing body of the school.

(5) The chief executive officer may, in writing, request the governing body to provide the chief executive officer with such further information relevant to the application as the chief executive officer requires.

(6) The chief executive officer may refuse to consider an application if the governing body does not comply with a request made under subsection (5).

[Section 159B inserted: No. 28 of 2014 s. 8.]

159. Standards for non-government schools

(1) The Minister may determine standards for non-government schools about any of the following matters —

(a) the curriculum or curriculums of schools;

(b) staff to student ratios at schools;

(c) the days, and hours per day, of instruction provided by schools;

(d) the staff of schools;

(e) the premises that may be used for, or in connection with, schools;

(f) the facilities of schools;

(g) the number of children in each year level at schools;

(h) the enrolment and attendance procedures at schools;

(ha) the health and safety procedures at schools, including immunisation requirements for enrolment;

(i) the management, recording and reporting of critical and emergency incidents at schools;

(j) the arrangements (if any) for board and lodging for students on school premises or premises associated with schools;

(k) the response to, and recording of, complaints and disputes at schools;

(l) the arrangements for preventing child abuse at schools and for responding to any such abuse which may occur;

(m) the sufficiency of schools' financial resources for providing education of the kind for which registration is sought;

(n) any other matter prescribed by the regulations.

(2) A standard is to be determined in accordance with consultation procedures prescribed by the regulations.

(3) A standard —

(a) takes effect —

(i) on the day the standard is determined by the Minister; or

(ii) if a later day is stated in the standard, on that day;

and

(b) is to be published on a website maintained by the chief executive officer.

(4) A standard may be amended or repealed by a subsequent determination by the Minister.

(5) Subsection (2) applies to and in relation to the amendment of a standard.

(6) Subsection (3) applies to and in relation to the amendment or repeal of a standard.

[Section 159 inserted: No. 28 of 2014 s. 8; amended: No. 14 of 2019 s. 21.]

160. Determining applications for registration and renewal of registration

(1) The chief executive officer, on an application under section 158, is to register an establishment as a non-government school if satisfied that —

(a) the governing body of the school is the person or body that has the ownership, management or control of the school; and

(b) the constitution of the governing body of the school is satisfactory for the purposes of this Act; and

(c) each member of the governing body of the school is a fit and proper person to operate a school having regard to —

(i) the prior conduct, whether in Western Australia or elsewhere, of the member, or any person who, as described in subsection (5), is related to the member; and

(ii) any other matter the chief executive officer considers relevant;

and

(d) the school will observe any standards determined by the Minister under section 159; and

(e) the day-to-day management and control of the school by the principal will be separate from the overall governance of the school by its governing body; and

(f) the governing body of the school will be accountable for the following —

(i) development and implementation of an effective strategic direction for the school;

(ii) development and implementation of effective processes to plan for, monitor and achieve improvements in student learning;

(iii) effective management of the school's financial resources in accordance, where relevant, with any purposes for which they were provided;

(iv) compliance with all written and other laws that apply to and in respect of the school and the operation of the school;

and

(g) the school will provide a satisfactory standard of education of the kind for which registration is sought; and

(h) the school will provide satisfactory levels of care for the children concerned; and

(i) there has been no material change to the information provided under section 157A in relation to the advance determination about the proposal to establish the school.

(2) The chief executive officer, on an application under section 159A, is to renew the registration of a school if satisfied as to the matters referred to in subsection (1).

(3) Past and current compliance with a matter referred to in subsection (1) may be taken into account, where relevant, for the purposes of being satisfied as to the matter under this Act.

(4) If the chief executive officer is not satisfied as required under subsection (1) or (2), the chief executive officer is to —

(a) register, or renew the registration of, the school, as is relevant and —

(i) give a quality improvement notice; or

(ii) impose, or change, a condition; or

(iii) give a direction;

or

(b) refuse to register, or renew the registration of, the school, as is relevant.

(5) For the purposes of subsection (1)(c)(i), a person is related to a member if —

(a) one is an employer or employee of the other; or

(b) they are partners in a partnership; or

(c) one is a body corporate and the other —

(i) is a director or a member of the governing body of the body corporate; or

(ii) is otherwise involved in the control or management of the body corporate; or

(iii) has a legal or equitable interest in 5% or more of the share capital of the body corporate;

or

(d) one is the trustee or beneficiary of a trust of which the other is also a trustee or beneficiary; or

(e) they are associated or related in a manner prescribed by the regulations; or

(f) a chain of relationships can be traced between them under one or more of the preceding paragraphs.

[Section 160 inserted: No. 28 of 2014 s. 8.]

161A. Determining applications for registration change

(1) The chief executive officer is to approve an application under section 159B for a registration change if the chief executive officer is satisfied —

(a) as to the matters referred to in section 160(1) that, in the opinion of the chief executive officer, are relevant to the application; and

(b) if the application is in respect of a significant registration change, there has been no material change to the information supplied under section 157A in relation to the advance determination about the proposal to make the significant registration change.

(2) If the chief executive officer is not satisfied as required under subsection (1), the chief executive officer is to —

(a) approve the application and —

(i) give a quality improvement notice; or

(ii) impose, or change, a condition; or

(iii) give a direction;

or

(b) refuse to approve the application.

(3) If the chief executive officer approves the application, the chief executive officer is to amend the information that is recorded in the register in respect of the school in accordance with the approval.

[Section 161A inserted: No. 28 of 2014 s. 8.]

161B. Notice to be given about decisions under this Subdivision

(1) The chief executive officer is to notify an applicant in writing —

(a) of a decision made under this Subdivision; and

(b) of the reasons for the decision, if the decision is to —

(i) refuse to register, or to renew the registration of, a school; or

(ii) refuse to approve an application for a registration change in respect of a school.

(2) Notification is to be given as soon as is practicable after the decision is made, but, unless the application is for the renewal of registration, in any event not later than 6 months after the application is made.

[Section 161B inserted: No. 28 of 2014 s. 8.]

Subdivision 2 — Register and certificates of registration

[Heading inserted: No. 28 of 2014 s. 8.]

161. Register of non-government schools to be kept

(1) The chief executive officer is to keep an accurate and up-to-date register that records the following information in respect of each registered school —

(a) the name of the school;

(b) the address of the school and the location of all other school premises;

(c) the year levels of education that the school may provide;

(d) the curriculum or curriculums that the school may provide;

(e) the name of the governing body of the school;

(f) any other information prescribed by the regulations.

(2) The following information is also to be recorded in the register in respect of each registered school —

(a) the date on which the period of registration starts and, unless the school is a member of a school system, the date on which the period of registration ends;

(b) any condition of the school's registration;

(c) any direction given in relation to the school.

(3) The register may be kept in any way the chief executive officer thinks appropriate, including by electronic means.

[Section 161 inserted: No. 28 of 2014 s. 8.]

162. Certificate of registration

(1) The chief executive officer is to issue a certificate of registration to the governing body of a school that is granted registration, or renewal of registration, specifying the information that is recorded in the register in respect of the school.

(2) The chief executive officer is to issue a new certificate of registration to the governing body of a school if the information recorded in the register in respect of the school is amended.

[Section 162 inserted: No. 28 of 2014 s. 8.]

163A. Surrender of certificate of registration

(1) The governing body of a school is to surrender to the chief executive officer the certificate of registration of the school within 14 days after the governing body is notified in writing that —

(a) the registration of the school is cancelled under section 167; or

(b) the renewal of the registration of the school is refused under section 160(4)(b); or

(c) the certificate is to be surrendered under this section because a certificate is to be issued under section 162(2) as information recorded in the register in respect of the school has been amended.

Penalty: a fine of $5 000.

(2) It is a defence to a prosecution for an offence against subsection (1) for the governing body to show that the failure to surrender the certificate is due to its loss or destruction.

[Section 163A inserted: No. 28 of 2014 s. 8.]

163. Period of registration

(1) Subject to this Part, the registration of a school that is —

(a) a non-system school; or

(b) a member of a school system for which a system agreement is not in force,

continues for the period specified in its certificate of registration, being a period of not less than one year and not more than 5 years.

(2) Subject to this Part, the registration of a school that is a member of a school system for which a system agreement is in force continues until —

(a) the school ceases to be a member of the school system; or

(b) the school system ceases to be recognized under section 169.

(3) Despite subsection (1) and (2), the registration of a school that is the subject of an application under section 159A continues until a decision on the application is made under section 160.

[Section 163 amended: No. 28 of 2014 s. 9.]

Subdivision 3 — Notices, conditions, directions and cancellations

[Heading inserted: No. 28 of 2014 s. 10.]

164. Continuing suitability of governing body

(1) The chief executive officer may assess the suitability of the governing body of a registered school —

(a) as soon as is possible after receiving a notice under section 156B; and

(b) at any other time the chief executive officer sees fit.

(2) If, after conducting an assessment, the chief executive officer is not satisfied as to any matter referred to in section 160(1)(a), (b) and (c) the chief executive officer must —

(a) give a quality improvement notice; or

(b) impose, or change, a condition; or

(c) give a direction; or

(d) cancel the registration of the school under section 167(1)(c).

(3) The chief executive officer may, in writing, request the governing body of a registered school to provide the chief executive officer with any relevant information that the chief executive officer requires for the purposes of conducting an assessment under this section.

[Section 164 inserted: No. 28 of 2014 s. 11.]

165A. Quality improvement notices

(1) The chief executive officer may give a quality improvement notice to the governing body of a registered school at any time if not satisfied as to any matter referred to in section 160(1).

(2) A quality improvement notice is to be in writing and is to —

(a) identify the matter that the chief executive officer is not satisfied as to; and

(b) specify —

(i) the remedial action required in respect of the matter; and

(ii) if relevant, the period of time within which the action is to be taken.

(3) If a matter identified under subsection (2)(a) is a failure to observe a standard determined by the Minister under section 159, then the standard is also to be identified in the notice.

[Section 165A inserted: No. 28 of 2014 s. 11.]

165. Conditions of registration

(1) The chief executive officer may impose a condition on the registration of a school, or change an existing condition, at any time if —

(a) not satisfied as to any matter referred to in section 160(1); or

(b) not satisfied that a quality improvement notice given to the governing body of the school has been complied with.

(2) A condition is to be in writing and is to —

(a) identify —

(i) the matter that the chief executive officer is not satisfied as to; or

(ii) the quality improvement notice that the chief executive officer is not satisfied has been complied with;

and

(b) specify —

(i) any remedial action required in respect of the matter or quality improvement notice; and

(ii) if relevant, the period of time within which the action is to be taken.

(3) If a matter identified under subsection (2)(a)(i) is a failure to observe a standard determined by the Minister under section 159, then the standard is also to be identified in the condition.

(4) The governing body of a registered school must ensure that a condition imposed on the registration of the school is complied with.

(5) The chief executive officer may remove a condition if satisfied that the condition has been complied with or is no longer required.

[Section 165 inserted: No. 28 of 2014 s. 11.]

166. Directions to comply

(1) The chief executive officer may give a written direction to the governing body of a registered school at any time if —

(a) not satisfied as to any matter referred to in section 160(1); or

(b) not satisfied that any condition of the school's registration is being complied with.

(2) A direction is to be in writing and is to —

(a) identify —

(i) the matter that the chief executive officer is not satisfied as to; or

(ii) the condition that the chief executive officer is not satisfied is being complied with;

and

(b) specify —

(i) any remedial action required in respect of the matter or condition; and

(ii) if relevant, the period of time within which the action is to be taken.

(3) If a matter identified under subsection (2)(a)(i) is a failure to observe a standard determined by the Minister under section 159, then the standard is also to be identified in the direction.

(4) The governing body of a registered school must ensure that a direction given in relation to the school is complied with.

(5) The chief executive officer may withdraw a direction if satisfied that the direction has been complied with or is no longer required.

[Section 166 inserted: No. 28 of 2014 s. 11.]

167A. No new enrolments while a direction is outstanding

A governing body of a registered school that has been given a direction is to ensure that no children are accepted for enrolment at the school until the direction is withdrawn under section 166(5).

Penalty: a fine of $10 000.

[Section 167A inserted: No. 28 of 2014 s. 11.]

167. Cancelling registration

(1) The chief executive officer may cancel the registration of a registered school at any time if —

(a) satisfied that the school or its governing body is not complying with —

(i) this Act; or

(ii) a condition; or

(iii) a direction;

or

(b) satisfied that it is in the best interests of the children at the school to do so; or

(c) not satisfied as to any matter referred to in section 160(1).

(2) The chief executive officer is to cancel the registration of a school at the written request of the governing body of the school.

(3) A request by a governing body to cancel the registration of a school is to be accompanied by a copy of the student record for each student currently enrolled at the school.

(4) The chief executive officer is not to cancel the registration of a school under subsection (1) without first —

(a) notifying the governing body of the proposed cancellation and of the reasons for it; and

(b) giving the governing body a reasonable opportunity to show why the registration should not be cancelled.

(5) Subsection (4) does not apply if, in the opinion of the chief executive officer, the health or welfare of any person may be at risk if the registration is not cancelled immediately.

(6) On cancelling the registration of a school, the chief executive officer is to give to the governing body of the school written notice stating —

(a) that the registration of the school is cancelled and giving the reasons for the cancellation; and

(b) the time when the cancellation takes effect.

(7) The cancellation takes effect at such time as is specified in the notice given under subsection (6).

(8) The chief executive officer may, by notice in writing, require the governing body of a registered school to provide to the chief executive officer, as soon as is possible after receiving the notice, a copy of the student record for each student currently enrolled at the school if —

(a) the school has requested that its registration be cancelled; or

(b) the chief executive officer has made a decision to cancel the registration of the school.

(9) A governing body must comply with a notice given to it under subsection (8).

Penalty: a fine of $10 000.

[Section 167 inserted: No. 28 of 2014 s. 11.]

Division 3C — Review of decisions under Divisions 3A and 3B

[Heading inserted: No. 28 of 2014 s. 12.]

168. Review of certain decisions

(1) The governing body of a school, or proposed school, may apply in writing to the Minister for a review of any of the following —

(a) a decision under section 157B(4) to refuse to make an advance determination;

(b) a decision under section 160(4)(b) to refuse to register, or renew the registration of, the school;

(c) a decision under section 161A(2)(b) to refuse to approve an application for a registration change;

(d) a decision to impose, or change, a condition to which the school's registration is subject;

(e) a decision to give a direction in relation to the school;

(f) a decision under section 167(1) to cancel the registration of the school.

(2) The application is to —

(a) be made in writing within 20 days after the applicant receives written notice of the decision; and

(b) if reasons are given for the decision, address the reasons for the decision; and

(c) be made in a form approved by the Minister; and

(d) be accompanied by the prescribed fee, if any.

(3) Where an application is made under subsection (1), the Minister is to refer the matter to a Non-government School Registration Advisory Panel which is to examine the matter and report to the Minister with its recommendation.

(4) A Non-government School Registration Advisory Panel is to give the applicant the opportunity to be heard.

(5) The Minister is to give a copy of the report of the Non-government School Registration Advisory Panel to the applicant.

(6) The Minister after considering the report may confirm, vary or reverse the decision and is to give written notice to the applicant of the subsequent decision and written reasons for that decision.

(7) In this section —

Non-government School Registration Advisory Panel means an advisory panel under section 241 established for the purposes of subsection (3) of this section.

[Section 168 amended: No. 28 of 2014 s. 13.]

Division 3 — Non-government school systems

Subdivision 1 — Recognition of systems

169. Recognized school system, declaration of

(1) Where the Minister is satisfied that subsection (2) applies to a group of registered schools, the Minister may by order published in the *Government Gazette* declare the schools to be a recognized school system.

(2) This subsection applies where a person or body of persons exercises a supervisory role over a group of 2 or more registered schools (the ***governing body of the system***).

(3) An order under subsection (1) is to specify —

(a) the schools that are members of the school system; and

(b) the name and address of the governing body of the system.

[Section 169 amended: No. 28 of 2014 s. 14.]

170. Revoking s. 169 order

(1) The Minister may by order published in the *Government Gazette* revoke an order under section 169 in respect of a school system if —

(a) the Minister is no longer satisfied that section 169(2) applies to the schools in the system; or

(b) the Minister is satisfied that it is in the best interests of children at schools in the system to do so.

(2) An order under subsection (1) in respect of a school system may provide that the registration of a school in the system will remain in force for a period of up to 12 months after the order comes into force.

(3) The Minister is not to publish an order under subsection (1) in respect of a school system without first —

(a) notifying the governing body of the system of the proposed revocation and of the reasons for it; and

(b) giving the governing body a reasonable opportunity to show why the order should not be revoked.

(4) The revocation takes effect at such time as is specified in the order.

171. School system may accept certain schools as members of system

(1) The governing body of a school system may accept as a member of the system a school that is registered as a non-system school without conditions if that registration is not subject to any condition.

(2) The governing body is to give notice to the Minister of its intention to accept the school as from a day specified in the notice.

(3) The school becomes a member of the system on the day specified in the notice.

172. School in school system may withdraw from system

(1) The person or body of persons that has the ownership of a school that is a member of a school system may give notice to the Minister that the school intends to withdraw from the system.

(2) Despite section 159A(3)(a), an application under section 159A for the renewal of the registration of a school that withdraws from a school system can be made within one month after the withdrawal of the school from the system.

(3) The Minister is to inform the governing body of the relevant school system of the notice given under subsection (1).

[Section 172 amended: No. 28 of 2014 s. 15.]

Subdivision 2 — System agreements

173. System agreement, Minister may make etc.

(1) The Minister may make an agreement with the governing body of a school system.

(2) The term of a system agreement is not to exceed 10 years but on its expiry a further system agreement may be made.

(3) If the Minister is not willing to make a further system agreement in place of an expiring system agreement, the Minister is to notify the governing body concerned in writing of that fact and of the reasons for his or her unwillingness.

(4) A notice under subsection (3) is to be given not later than 6 months before the agreement will expire.

174. Content of system agreement

(1) A system agreement is to include provisions as to —

(a) the accountability of the governing body for the proper oversight and management of schools in the system; and

(b) methods by which the governing body will ensure that standards of educational instruction are maintained in the schools in the system; and

(c) the provision of the information referred to in section 156C by the governing body of the system on behalf of the schools in the system; and

(da) the methods by which the governing body will ensure that satisfactory levels of care are maintained for the children in the schools in the system; and

(d) the means by which disputes and complaints about the provision of education at schools in the system may be dealt with; and

(e) the procedure for varying the agreement from time to time; and

(f) any other matter prescribed by the regulations.

(2) A system agreement may also include provisions as to any of the following —

(a) the delegation of responsibility for registration and performance review of the schools in the system to the governing body of the system;

(b) the provision of information about the system including —

(i) statistical, educational and financial information; and

(ii) information about policies, procedures and practices;

(c) the manner in which compliance by the governing body with the system agreement is to be audited and reported to the Minister;

(d) any other matter prescribed by the regulations.

(3) The chief executive officer is to keep a register of system agreements and their contents.

[Section 174 amended: No. 28 of 2014 s. 16.]

175. Termination of system agreement

The Minister may terminate a system agreement at any time if he or she is satisfied that the governing body of the system is not complying with the agreement.

Division 4 — Inspection of registered schools

[Heading inserted: No. 28 of 2014 s. 17.]

176. Inspection of registered school after notice given

(1) The chief executive officer may authorise a person to inspect registered schools for all or any of the following purposes —

(a) to ensure that the following are being complied with —

(i) this Act;

(ii) a quality improvement notice;

(iii) a condition;

(iv) a direction;

(b) to inquire into the following —

(i) any matter referred to in section 160(1);

(ii) where any matter referred to in section 160(1) has not been complied with, the causes of the failure to comply.

(2) The chief executive officer is to issue a certificate of authority to any person authorised under subsection (1) that specifies —

(a) the full name of the person so authorised; and

(b) the period for which the certificate is in force.

(3) Any person authorised under subsection (1) may, on 7 days' notice —

(a) enter and inspect any premises of a registered school; and

(b) require the production of records (including student records) and documents relating to the school and inspect or take copies of them; and

(c) require any person to give assistance reasonably necessary for the exercise of the powers conferred by this section.

[Section 176 amended: No. 37 of 2011 s. 58(3); No. 28 of 2014 s. 18.]

177. Inspection of registered school with no notice

(1) The chief executive officer may authorise a person to inspect a registered school without notice for any of the purposes referred to in section 176(1) if the chief executive officer is of the opinion that it is necessary to do so because the health or welfare of a person may be at risk.

(2) The chief executive officer is to issue a certificate of authority to any person authorised under subsection (1) that specifies —

(a) the full name of the person so authorised; and

(b) the period for which the certificate is in force, being a period of not more than 7 days; and

(c) the reasons for authorising the inspection under subsection (1).

(3) Any person authorised under subsection (1) may —

(a) enter, search and inspect any premises of the school; and

(b) require the production of records (including student records) and documents relating to the school and inspect or take copies of them; and

(c) if authorised in writing by the chief executive officer to do so, take possession of any records (including student records) or documents kept by the school; and

(d) require any person to give assistance reasonably necessary for the exercise of the powers conferred by this section.

[Section 177 amended: No. 37 of 2011 s. 58(3); No. 28 of 2014 s. 19.]

178. Inspector under s. 176 or 177 to produce certificate of authority

A person authorised under section 176 or 177 must produce the certificate referred to in subsection (2) of that section to a person in charge of any premises in respect of which the person is exercising or about to exercise his or her powers.

179. Obstructing inspector, offence

A person must not hinder or obstruct an authorised person who is carrying out or attempting to carry out an inspection under this Part.

Penalty: a fine of $2 000.

[Section 179 amended: No. 28 of 2014 s. 35.]

*[**180, 181.** Deleted: No. 28 of 2014 s. 20.]*

Division 5 — Funding

182. Money appropriated for registered schools, allocation of

(1) The Minister may allocate moneys that have been appropriated by Parliament for the purpose of assisting registered schools and school systems.

(2) Allocations must be made in accordance with —

(a) an order made under section 183; or

(b) guidelines issued under such an order.

[(3) Has not come into operation.]

183. Purposes etc. for which allocations will be made, orders as to etc.

(1) The Minister may by order published in the *Government Gazette* make provision for —

(a) the purposes for which; and

(b) the manner in which,

moneys appropriated by Parliament for the purposes of section 182 will be applied in assisting registered schools and school systems.

(2) The Minister may by order published in the *Government Gazette* amend or revoke an order under subsection (1).

(3) An order under subsection (1) or (2) is to take effect on such day as is specified in the order which may be a day earlier than the day on which the order is published.

184. Contents of s. 183 orders

Without limiting section 183 an order under that section may provide —

(a) for moneys to be paid to the governing body of —

(i) a registered school; or

(ii) a school system for which a system agreement is in force;

or

(b) for guidelines to be issued by the Minister from time to time expressing the principles upon which assistance will be given; or

(c) that moneys not applied to the purposes specified in the order may, with the approval of the Minister, be applied to any other purpose approved by the Minister; or

(d) for any assistance provided to be subject to such conditions, limitations or restrictions as are specified in the order.

185. Minister may require school to account for allocated moneys

(1) The Minister may require a governing body to furnish to the Minister a report as to the application of moneys provided under this Division.

(2) If —

(a) the governing body fails to furnish any report required by the Minister; or

(b) any condition, limitation or restriction on the use of moneys is not complied with; or

(c) the Minister is of the opinion that moneys have not been applied in accordance with an order under section 183,

the Minister may recover the moneys as a debt in a court of competent jurisdiction.

Division 6 — Loans for capital works

186. Minister's powers to lend moneys

(1) The Minister may lend money for capital works to the governing body of —

(a) a registered school; or

(b) a school system for which a system agreement is in force.

(2) Any such loan is to be made out of moneys borrowed by the Minister under section 187.

(3) The terms and conditions of any such loan, including the interest to be paid —

(a) may be less onerous than those that might reasonably apply to such a loan made commercially; and

(b) are to be approved by the Treasurer.

(4) In subsection (1) —

capital works means the acquisition of land, the construction, modification and renovation of buildings and the purchase of plant and equipment, or any of those things.

187. Minister may borrow moneys to make s. 186 loan

(1) The Minister may borrow moneys for the purpose of lending under section 186 —

(a) from the Treasurer on such terms and conditions relating to repayment and payment of interest as the Treasurer imposes; or

(b) with the prior written approval of the Treasurer and on such terms and conditions as the Treasurer approves, from persons other than the Treasurer.

(2) Any moneys borrowed by the Minister under subsection (1)(b) may be raised —

(a) as one loan or as several loans; and

(b) in such manner as the Treasurer approves.

(3) The total amount of the moneys borrowed by the Minister under subsection (1)(b) in any one financial year is not to exceed such amount as the Treasurer approves.

188. Operating account for s. 186 and 187 moneys

(1) The following moneys are to be credited to an operating account approved by the Treasurer —

(a) repayments of moneys loaned under section 186; and

(b) moneys borrowed under section 187.

(2) The following moneys are to be charged to the operating account —

(a) moneys loaned under section 186; and

(b) repayments of moneys borrowed under section 187.

(3) In this section —

operating account means an agency special purpose account established and maintained under section 16 of the *Financial Management Act 2006*.

[Section 188 amended: No. 77 of 2006 Sch. 1 cl. 154(3).]

189. Treasurer's guarantee for moneys borrowed under s. 187

(1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee payments to be made by the Minister in respect of moneys borrowed by the Minister under section 187(1)(b).

(2) A guarantee is to be in such form and contain such terms and conditions as the Treasurer determines.

(3) Before a guarantee is given —

(a) the Minister is to give to the Treasurer such security as the Treasurer requires; and

(b) all instruments that are necessary for the purpose are to be executed.

(4) The Treasurer may fix charges to be paid by the Minister to the credit of the Consolidated Account in respect of a guarantee given under this section.

[Section 189 amended: No. 77 of 2006 s. 4.]

190. Payments under s. 189 guarantee

(1) The due payment of moneys under a guarantee given under section 189 is to be —

(a) made by the Treasurer; and

(b) charged to, and paid out of, the Consolidated Account,

and this subsection appropriates that Account accordingly.

(2) The Treasurer is to cause to be credited to the Consolidated Account any amounts received or recovered from the Minister or otherwise in respect of any payment made by the Treasurer under a guarantee given under section 189.

[Section 190 amended: No. 77 of 2006 s. 4 and 5(1).]

Part 5 — Community kindergartens

What this Part is about

This Part requires community kindergartens to be registered by the Minister and makes various provisions about their operation and funding.

In particular it deals with —

- the registration of community kindergartens that meet the required standards (Division 2);
- the operation and management of community kindergartens (Division 3);
- the allocation of funds appropriated by Parliament for community kindergartens (section 210).

Division 1 — Preliminary

191. Term used: governing body

In this Part, unless the contrary intention appears —

governing body, in relation to a kindergarten or proposed kindergarten, means the person or body of persons that has the ownership, management or control of the kindergarten or proposed kindergarten.

Division 2 — Registration of community kindergartens

192. Registration, general provisions as to

The Minister may register community kindergartens for the provision of educational programmes for one or both of the following —

(a) education for children in their pre-compulsory education period;

(b) education for children in their early education period or for any specified part of that period.

[Section 192 amended: No. 11 of 2012 s. 44; No. 46 of 2012 s. 11.]

193. Application for registration

(1) The governing body of a kindergarten may apply to the Minister for the kindergarten to be registered as a community kindergarten.

(2) An application is to —

(a) be made in writing at least 6 months before the day from which registration is sought; and

(b) specify the location of all the premises to be used by the kindergarten; and

(c) provide any other prescribed information.

(3) The Minister may require the governing body to provide any other information that he or she considers necessary.

194. Matters to be considered by Minister

(1) The Minister, in determining an application for registration of a kindergarten is to take into account —

(a) the location of the premises to be used by the kindergarten; and

(b) the kindergarten's buildings, if any; and

(c) the playground equipment and other facilities to be provided; and

(d) any other matter prescribed by the regulations.

(2) The Minister may determine standards in respect of the matters referred to in subsection (1).

195. Grant or refusal of registration

(1) The Minister is to register the kindergarten as a community kindergarten if the Minister is satisfied that —

(a) the governing body of the kindergarten will be incorporated under the *Associations Incorporation*

Act 2015 before the day from which registration is sought; and

(b) the constitution of the governing body of the kindergarten is satisfactory for the purposes of this Act; and

(c) the members of the governing body are fit and proper persons to operate a community kindergarten; and

(d) the kindergarten will meet any standards determined by the Minister under section 194(2); and

(e) the kindergarten will provide satisfactory levels of care for the children concerned; and

(f) the kindergarten complies, or will be able to comply, with any written laws affecting the operation of the kindergarten.

(2) If the Minister is not so satisfied, he or she is to —

(a) register the kindergarten subject to specified conditions; or

(b) refuse to register the kindergarten.

[Section 195 amended: No. 30 of 2015 s. 228(7).]

196. Minister to notify decision within 3 months

The Minister, within 3 months after the application is received, is to notify the applicant in writing of the decision and, if registration is refused, of the reasons for the refusal.

197. Certificate of registration; register of registered kindergartens

(1) The Minister is to issue a certificate of registration to the governing body of a community kindergarten, specifying the kind or kinds of education, in terms of section 192, for which it is registered under this Part.

(2) The registration of a community kindergarten has effect indefinitely unless the registration is cancelled under section 200.

(3) The chief executive officer is to keep a register of community kindergartens that are registered under this Part.

[Section 197 amended: No. 11 of 2012 s. 45.]

198. Amending etc. conditions of registration

(1) Where under section 195(2)(a) a community kindergarten is registered subject to conditions, the Minister may decide to —

(a) impose any new condition; or

(b) change or remove an existing condition.

(2) The Minister is not to make a decision under subsection (1) without first consulting the governing body of the kindergarten.

(3) The Minister is to give written notice of any decision under subsection (1) to the governing body of the kindergarten and the decision does not take effect until —

(a) 14 days after the notice is given; or

(b) such later time as is set out in the notice.

199. Who can attend registered kindergarten

(1) It is a condition of every registration of a community kindergarten that a child is not to attend the community kindergarten in a year unless —

(a) the child's pre-compulsory education period falls in that year; or

(b) if paragraph (a) does not apply, the child's attendance —

(i) is approved by the chief executive officer; or

(ii) if the kindergarten is registered to provide the kind of education referred to in section 192(b), is in accordance with the regulations.

(2) The chief executive officer may —

(a) attach any condition to; or

(b) revoke,

an approval under subsection (1)(b).

[Section 199 amended: No. 11 of 2012 s. 46; No. 46 of 2012 s. 12.]

200. Cancelling registration, Ministers' functions as to

(1) The Minister may cancel the registration of a community kindergarten at any time if the Minister is satisfied —

(a) that the buildings or facilities of the kindergarten present a risk to the safety or health of the children or staff at the kindergarten; or

(b) that there has been mismanagement by the governing body or its management committee; or

(c) that the kindergarten or its governing body is not complying with —

(i) this Act; or

(ii) any relevant requirement of the *School Curriculum and Standards Authority Act 1997*; or

(iii) any condition of the kindergarten's registration; or

(iv) a direction given under section 202;

or

(d) that it is in the best interests of the children at the kindergarten to do so.

(2) The Minister is not to cancel the registration of a community kindergarten without first —

(a) notifying the governing body of the proposed cancellation and of the reasons for it; and

(b) giving the governing body a reasonable opportunity to show why the registration should not be cancelled.

(3) Subsection (2) does not apply if in the opinion of the Minister the health or welfare of persons may be at risk if the registration is not cancelled immediately.

(4) The Minister is to give written notice of the cancellation to the governing body.

(5) The cancellation takes effect at such time as is specified in the notice given under subsection (4).

[Section 200 amended: No. 37 of 2011 s. 58(3).]

201. Decision as to registration, review of

(1) The governing body of a kindergarten may apply in writing to the Minister for a review of a decision of the Minister —

(a) to refuse to register the kindergarten as a community kindergarten; or

(b) concerning a condition to which the kindergarten's registration is subject; or

(c) to cancel the kindergarten's registration.

(2) The application is to be made within 28 days after the applicant received written notice of the decision.

(3) Where an application is made under subsection (1), the Minister is to refer the matter to a Community Kindergarten Registration Advisory Panel which is to examine the matter and report to the Minister with its recommendation.

(4) A Community Kindergarten Registration Advisory Panel is to give the applicant the opportunity to be heard.

(5) The Minister is to give a copy of the report of the Community Kindergarten Registration Advisory Panel to the applicant.

(6) The Minister after considering the report may confirm, vary or reverse the decision and is to give written notice to the applicant of the subsequent decision and written reasons for that decision.

(7) In this section —

Community Kindergarten Registration Advisory Panel means an advisory panel under section 241 established for the purposes of subsection (3) of this section.

Division 3 — Operation and management of community kindergartens

202. Minister may direct registered kindergarten as to standards

(1) The Minister may give directions in writing to the governing body of a community kindergarten requiring the governing body to observe any standard for the time being determined under section 194(2).

(2) A governing body is to comply with a direction so given.

203. Governing body of kindergarten, role of

(1) With the approval of the Minister and subject to the regulations, a governing body for a community kindergarten or its management committee may take part in the selection of teaching staff for the kindergarten.

(2) The governing body of a community kindergarten cannot —

(a) intervene in the educational instruction of children; or

(b) exercise authority over teaching staff or other persons appointed under section 236(2) who are employed at the kindergarten.

(3) The number of children that may attend a community kindergarten is to be determined by the chief executive officer.

204. Teaching staff etc., appointment of

The chief executive officer is to appoint such number of teaching staff and other persons under section 236(2) as the chief executive officer considers appropriate for the provision of an educational programme at a community kindergarten.

205. Teaching staff, functions of

(1) The functions of teaching staff in a community kindergarten are —

(a) to foster and facilitate learning in children; and

(b) to give competent instruction to children in accordance with —

(i) the curriculum; and

(ii) standards determined by the chief executive officer,

and to undertake the preparation necessary to do so; and

(c) to undertake regular evaluation and reporting of the progress of children; and

(d) to be answerable for the educational achievement of children under his or her instruction to a principal nominated, or an officer designated by, the chief executive officer; and

(e) to supervise children and to maintain proper order and discipline on their part; and

(f) to carry out administrative duties to meet organizational requirements relevant to the teacher's functions; and

(g) to perform any other prescribed function assigned by the chief executive officer.

(2) The functions set out in subsection (1) have effect subject to —

(a) this Act; and

(b) the instructions of the chief executive officer.

206. Curriculum and enrolment

(1) Sections 67 and 68 have effect as if the references in those sections to government schools included community kindergartens.

(2) The enrolment of a child at a community kindergarten is to be in accordance with —

(a) the *Public Health Act 2016* section 141D; and

(b) the regulations.

[Section 206 amended: No. 14 of 2019 s. 22.]

207. Fee for instruction and charges

(1) Except as provided by this section, no fee or charge may be imposed or collected for the cost of providing an educational programme of a community kindergarten.

(2) Regulations may be made providing for charges that may be made for —

(a) materials provided in an educational programme of a community kindergarten; and

(b) services or facilities for use in, or associated with the provision of, an educational programme of a community kindergarten.

(3) Regulations may provide for the manner of determining a charge, the kind of charge that is able to be charged for the purposes of this section, the limits of such charges and any other matter relevant to such charges and their recovery.

*[**208.** Has not come into operation.]*

209. Person disrupting kindergarten etc.; disseminating information on kindergarten premises

Sections 120 and 121 have effect as if the references in those sections —

(a) to a government school included a community kindergarten; and

(b) to a principal included a principal or an officer referred to in section 205(1)(d).

210. Moneys appropriated for kindergartens, allocation of

(1) The chief executive officer may, in accordance with the regulations, allocate moneys that have been appropriated by Parliament for the purpose of assisting community kindergartens.

(2) Moneys may only be allocated under this section in respect of children who are —

(a) entitled to reside permanently in Australia; or

(b) members of a class of children prescribed by the regulations.

(3) Regulations may be made providing for the allocation of moneys referred to in subsection (1).

211. Minister may require kindergarten to account for allocated moneys

(1) The chief executive officer may require a governing body to furnish to the chief executive officer a report as to the application of moneys provided under this Part.

(2) If —

(a) the governing body fails to furnish any report required by the chief executive officer; or

(b) any condition, limitation or restriction on the use of moneys is not complied with,

the chief executive officer may recover the moneys as a debt in a court of competent jurisdiction.

212. Regulations about kindergartens

Regulations may be made for the regulation and control of community kindergartens.

Part 6A — Student residential colleges

[Heading inserted: No. 41 of 2016 s. 11.]

What this Part is about

This Part provides for student residential colleges.

In particular it deals with —

- the establishment of student residential colleges (Division 2);
- the administration of student residential colleges (Division 3);
- local input networking and communications committees (LINC committees) for student residential colleges (Division 4);
- provisions for the management of college funds and funds appropriated by Parliament for student residential colleges (Division 5).

[Note inserted: No. 41 of 2016 s. 11.]

Division 1 — Preliminary

[Heading inserted: No. 41 of 2016 s. 11.]

213A. Terms used

In this Part —

code of conduct means the code of conduct issued under section 213J;

college fund means the General Purposes Fund and a fund referred to in section 213R;

General Purposes Fund, in relation to a student residential college, means the fund referred to in section 213Q;

joint arrangement means an arrangement entered into by the Minister for purposes that are complementary and beneficial to the functions conferred on the Minister under this Part in relation to student residential colleges and which involves any or all of the following —

(a) enabling any property vested in the Minister to be used for the purposes of the arrangement (***joint use property***);

(b) controlling and managing the use of joint use property for the purposes of the arrangement;

(c) sharing the use of joint use property for the purposes of the arrangement and for the purposes of performing any of the functions conferred on the Minister under this Part in relation to student residential colleges;

LINC committee, in relation to a student residential college, means the committee constituted for that college under section 213M;

property has the meaning given in section 213;

student residential college means a student residential college established under section 213B;

Student Residential Colleges Fund means the account established under section 213Y.

[Section 213A inserted: No. 41 of 2016 s. 11.]

Division 2 — Establishment of student residential colleges

[Heading inserted: No. 41 of 2016 s. 11.]

213B. Establishing student residential colleges

(1) The Minister may establish such student residential colleges as the Minister considers necessary to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school.

(2) The Minister, in considering if it is necessary to establish a student residential college, is to take into account the following —

(a) the social, cultural, lingual, economic or geographic factors that might affect access to school education for particular students;

(b) any other matter prescribed by the regulations.

(3) The Minister may assign a name to, or change the name of, a student residential college.

[Section 213B inserted: No. 41 of 2016 s. 11.]

213C. Closing or amalgamating student residential colleges

(1) The Minister may on such terms and conditions as the Minister thinks fit —

(a) amalgamate 2 or more student residential colleges; and

(b) close any student residential college either temporarily or permanently.

(2) Before making a decision under subsection (1), the Minister is to take into account the matters described in section 213B(2).

[Section 213C inserted: No. 41 of 2016 s. 11.]

Division 3 — Administration of student residential colleges

[Heading inserted: No. 41 of 2016 s. 11.]

Subdivision 1 — Operation and management

[Heading inserted: No. 41 of 2016 s. 11.]

213D. Operation and management of student residential colleges

(1) The Minister is responsible for the operation and management of student residential colleges.

(2) The responsibility of the Minister under subsection (1) includes determining, implementing and monitoring the standard of care provided to students at student residential colleges.

[Section 213D inserted: No. 41 of 2016 s. 11.]

213E. Powers of Minister relating to student residential colleges

(1) The Minister may do all things necessary or convenient to be done for the purposes of —

(a) performing the functions conferred on the Minister under this Part in relation to student residential colleges; or

(b) carrying out joint arrangements.

(2) Without limiting subsection (1), the Minister may for any of the purposes mentioned —

(a) acquire, hold, manage, improve, develop and dispose of property or an interest in property; and

(b) accept any gift, grant, devise or bequest if it is absolute or subject to conditions to which the Minister agrees; and

(c) subject to section 213F, participate in any business arrangement and acquire, hold and dispose of shares, units or other interests in, or relating to, a business arrangement; and

(d) allow persons to undertake advertising or sponsorship, of the kind and to the extent that is authorised by regulations, in connection with student residential colleges; and

(e) enter into any contract or arrangement; and

(f) use the expertise and resources of the department to provide consultancy, advisory or other services for profit.

(3) In exercising any power under this section the Minister may act in conjunction with —

(a) any person or firm, or a public authority; or

(b) any department of the Public Service or any agency of the State or the Commonwealth.

(4) An agreement or arrangement for advertising or sponsorship in relation to a student residential college is not to be entered into by a person acting —

(a) in exercise of the power conferred by subsection (2)(d); and

(b) as a subdelegate of the Minister under section 225,

unless the LINC committee for that college has approved the agreement or arrangement.

(5) If a term is given a meaning in section 216(6), it has the same meaning in subsection (2).

[Section 213E inserted: No. 41 of 2016 s. 11.]

213F. Treasurer to consider proposals under s. 213E(2)(c)

(1) Before the Minister exercises any power conferred by section 213E(2)(c) he or she is to —

(a) notify the Treasurer of the proposal; and

(b) seek the Treasurer' s approval to it,

unless it is of a kind that the Treasurer has determined in writing need not be so notified.

(2) If the Treasurer approves the proposal, he or she may impose requirements to be complied with by the Minister in connection with it.

(3) The Treasurer may also give directions to be complied with generally by the Minister in the exercise of the powers referred to in subsection (1).

[Section 213F inserted: No. 41 of 2016 s. 11.]

213G. When money paid for advertising or sponsorship to be paid to student residential college's General Purposes Fund

(1) Where —

(a) an agreement or arrangement for advertising or sponsorship in relation to a student residential college is entered into —

(i) in exercise of the power conferred by section 213E(2)(d); and

(ii) as the subdelegate of the Minister under section 225;

and

(b) the subdelegation expressly states that this section is to apply,

any money payable for the advertising or sponsorship is to be credited to the General Purposes Fund of the college in accordance with section 213T(1)(d).

(2) The Minister is to ensure that a subdelegation does not state that this section is to apply unless the application of the section in the particular case is in accordance with the fair distribution across student residential colleges of the benefits of advertising and sponsorship.

[Section 213G inserted: No. 41 of 2016 s. 11.]

213H. Sections 120 and 121 have effect in respect of student residential colleges

Sections 120 and 121 have effect in respect of a student residential college as if references in those sections —

(a) to a government school were to a student residential college; and

(b) to a teacher included a person employed at a student residential college; and

(c) to an authorised person, in relation to a government school, were to —

(i) a person authorised by the chief executive officer to exercise the powers conferred by this section in respect of a student residential college; and

(ii) a person who belongs to a class of persons so authorised.

[Section 213H inserted: No. 41 of 2016 s. 11.]

Subdivision 2 — Regulations and code of conduct

[Heading inserted: No. 41 of 2016 s. 11.]

213I. Regulations about student residential colleges

(1) Regulations may be made in respect of student residential colleges.

(2) Without limiting subsection (1), regulations may make provision for, and in relation to, any or all of the following —

(a) agreements under which accommodation and related services are provided at student residential colleges (an ***agreement***), including any requirements as to any, or all, of the contents of an agreement (including any specific terms and conditions);

(b) kinds of, and limits to, the costs and charges payable for accommodation and related services provided under an agreement and any other matter relevant to such costs and charges and their recovery;

(c) requirements as to the health and safety of students boarding at student residential colleges;

(d) the operation and management of student residential colleges including —

(i) the making of applications for places at colleges and the offering of those places based on the availability of suitable accommodation and conformity with any other criteria prescribed;

(ii) access to, and the use of, the facilities and services of colleges;

(iii) the means by which disputes or complaints about the operation or management of a college, or the conduct of any student, or person employed at a college, may be dealt with.

(3) Regulations of the kind mentioned in subsection (2)(d)(iii) may —

(a) confer authority on the Minister to make provision, by instrument published in the *Gazette*, for a scheme for dealing with disputes and complaints; and

(b) confer protection on persons in respect of statements made or information given; and

(c) provide for the powers that may be exercised in connection with the investigation and resolution of disputes and complaints.

(4) Regulations for the purposes of section 213E(2)(d) may provide for —

(a) the duration of an agreement or arrangement for advertising or sponsorship in relation to a student residential college; and

(b) naming rights in relation to advertising or sponsorship in relation to a student residential college; and

(c) the means of ensuring that advertising or sponsorship in relation to a student residential college does not interfere with the normal operations of the college.

[Section 213I inserted: No. 41 of 2016 s. 11.]

213J. Code of conduct for students

(1) The Minister is to prepare and issue a code of conduct for students at student residential colleges.

(2) A code of conduct is to set out minimum standards of conduct to be observed by students at student residential colleges.

(3) A code of conduct may —

(a) be about any aspect of the conduct of students at student residential colleges; and

(b) set general principles to guide the behaviour of students at student residential colleges; and

(c) make specific provision in respect of a particular student residential college.

(4) The Minister may consult with any, or all, of the LINC committees before issuing a code of conduct if the Minister considers it necessary or desirable to do so.

(5) A code of conduct —

(a) is to be published —

(i) in the *Gazette*; and

(ii) by any other means (including on the Internet) that the Minister thinks fit;

and

(b) takes effect —

(i) on the day it is published in the *Gazette*; or

(ii) if a later day is stated in the code, on that day.

(6) The Minister may amend a code of conduct in force under subsection (1) or repeal it and substitute a new code of conduct.

(7) Subsections (4) and (5) apply to and in relation to the amendment or repeal of a code of conduct.

[Section 213J inserted: No. 41 of 2016 s. 11.]

Subdivision 3 — Power of Minister to grant licences

[Heading inserted: No. 41 of 2016 s. 11.]

213K. Licences by Minister for use of tangible property relating to student residential colleges

(1) This section applies to a licence granted by the Minister to a person for the use of tangible property vested in the Minister that relates to a student residential college.

(2) A licence is not to be granted if the use of the property would adversely affect the safety or welfare of students or other

persons residing or employed at the student residential college to which the property relates.

(3) A licence —

(a) must be in writing; and

(b) may provide for a payment to be made by the licensee in connection with the use of the property; and

(c) may provide for an amount of money to be paid by the licensee as security for the performance of the licensee's obligations under the licence; and

(d) is otherwise to be on such terms and subject to such conditions as the Minister thinks fit.

(4) A licence granted for the use of property that is not in use by the college to which the property relates —

(a) is not to be granted for a period of more than—

(i) in the case of a licence granted by a subdelegate acting under section 225 — 2 years; or

(ii) otherwise — 5 years;

and

(b) may be renewed once or more than once for a period or successive periods, each not exceeding the period allowed under paragraph (a)(i) or (ii).

(5) The use of property in respect of which a licence referred to in subsection (4) applies must not interfere with the normal operations of the student residential college to which the property relates.

(6) A licence granted for the purposes of a joint arrangement may provide for all things necessary or convenient to be done for the purpose of furthering the joint arrangement, including —

(a) the establishment, composition, powers and duties of a management committee to manage and control the use

of the property in accordance with the licence and the joint arrangement; and

(b) setting out how the property is to be shared and how disputes as to the use of the property are to be resolved; and

(c) the provision of facilities relating to the property; and

(d) payment to be made to the Minister by the licensee by way of contribution towards the costs incurred in the provision of any facilities; and

(e) the appointment and remuneration of staff with respect to the use of the property and any facilities.

[Section 213K inserted: No. 41 of 2016 s. 11.]

213L. When money paid under licence to be paid to a General Purposes Fund

Where a licence under section 213K for the use of tangible property vested in the Minister that relates to a student residential college —

(a) requires an amount of money to be paid in accordance with section 213K(3)(b) or (c); and

(b) is granted by a subdelegate of the Minister acting under section 225 and the subdelegation expressly states that this section is to apply,

subject to section 213S(4), the money is to be credited to the General Purposes Fund of the college in accordance with section 213T(1)(d).

[Section 213L inserted: No. 41 of 2016 s. 11.]

Division 4 — LINC committees

[Heading inserted: No. 41 of 2016 s. 11.]

213M. LINC committees

(1) Each student residential college is to have a local input networking and communications committee (***LINC committee***).

(2) It is sufficient compliance with subsection (1) for 2 or more colleges, with the approval of the Minister, to have one LINC committee that operates for those colleges jointly.

(3) Subject to this Division, a LINC committee may determine its own procedure.

(4) The Minister is to ensure that each LINC committee is provided with such support services as it may reasonably require.

[Section 213M inserted: No. 41 of 2016 s. 11.]

213N. Membership of LINC committees

(1) A LINC committee is to be constituted by not less than 4 or more than 10 members appointed by the chief executive officer.

(2) The membership of a LINC committee is to be drawn from persons who have such experience, skills, attributes or qualifications as the chief executive officer considers appropriate to enable them to effectively perform the functions set out in section 213O, and may include —

(a) parents of students at the college; and

(b) other members of the general community; and

(c) any person employed at the college.

(3) Persons referred to in subsections (2)(a) and (b) must form the majority of members of a LINC committee.

(4) Unless otherwise provided by the regulations, a member is to hold office for a term of not more than 3 years as is specified in

the instrument of his or her appointment, and is eligible for reappointment.

[Section 213N inserted: No. 41 of 2016 s. 11.]

213O. Functions of LINC committees

(1) A LINC committee for a student residential college has the following functions —

(a) to provide advice regarding the operation and management of the college;

(b) to promote the interests of the college and to foster community interest in the college;

(c) to carry out the functions given by sections 213E(4) and 213J(4);

(d) to undertake such other functions prescribed by the regulations for the purposes of this section.

(2) A LINC committee for a student residential college may do any or all of the following —

(a) take part in and provide advice on the selection, but not the appointment, of any person employed at the college, if the person comes within a class of employees referred to in section 235(1);

(b) provide advice as to the means by which disputes or complaints about the conduct of students at the college may be dealt with;

(c) take part in the planning of, and provide advice on, the financial arrangements and priorities for the college.

(3) A LINC committee cannot —

(a) intervene in the operation or management of a student residential college; or

(b) exercise authority over any person employed at a student residential college.

(4) A LINC committee may do all things necessary or convenient to be done for or in connection with the carrying out of its functions.

[Section 213O inserted: No. 41 of 2016 s. 11.]

213P. Regulations about LINC committees

(1) Regulations may be made in respect of LINC committees.

(2) Without limiting subsection (1), regulations may be made about any or all of the following —

(a) the proceedings of LINC committees;

(b) matters relating to ineligibility for, and cessation or termination of, membership of LINC committees;

(c) enabling LINC committees to allow students, principals and other staff of a school and members of the local community to attend meetings and take part in discussion but without having a right to vote or being counted in determining a quorum.

[Section 213P inserted: No. 41 of 2016 s. 11.]

Division 5 — Financial provisions

[Heading inserted: No. 41 of 2016 s. 11.]

Subdivision 1 — Fund for each student residential college

[Heading inserted: No. 41 of 2016 s. 11.]

213Q. General Purposes Fund for each student residential college

Each student residential college is to have a fund to be called the "(name of student residential college) General Purposes Fund".

[Section 213Q inserted: No. 41 of 2016 s. 11.]

213R. Funds for other moneys received for a student residential college

The chief executive officer may authorise an officer designated under section 213S(1) to establish funds for the receipt of donations and bequests for or towards —

(a) the addition of new capital works to the student residential college premises; or

(b) the benefit of the college generally.

[Section 213R inserted: No. 41 of 2016 s. 11.]

213S. Management of college funds

(1) The management of a college fund is to be vested in an officer designated by the chief executive officer to perform that function for the college.

(2) The chief executive officer may amend, revoke or replace a designation under subsection (1).

(3) Moneys forming part of a college fund may only be expended by or with the authority of the person designated under subsection (1) and in accordance with —

(a) the regulations; and

(b) any directions (not being inconsistent with the regulations) issued by the chief executive officer either generally or in any particular case.

(4) However —

(a) money paid under a licence to which section 213K applies as a security for the performance of an obligation may only be applied in accordance with the licence; and

(b) subsection (3) only applies to that money if the money has been forfeited under, and in accordance with, the licence.

[Section 213S inserted: No. 41 of 2016 s. 11.]

213T. Money to be credited to college funds

(1) The following are to be credited to the General Purposes Fund of a student residential college —

(a) moneys from time to time allocated to the college from funds appropriated by Parliament;

(b) grants and advances to the college from government and private sources;

(c) charges and other moneys received or recovered under agreements under which accommodation and related services are provided at the colleges;

(d) moneys payable to the college under section 213G or 213L;

(e) the proceeds of any investment of the General Purposes Fund under section 213W;

(f) subject to subsection (2), other moneys properly receivable for the purposes of the college.

(2) There are to be credited to a fund established for a student residential college under section 213R —

(a) donations and bequests to the school for the purpose for which the fund was established; and

(b) the proceeds of any investment of the fund under section 213W.

[Section 213T inserted: No. 41 of 2016 s. 11.]

213U. Bank account for college funds

(1) Moneys forming part of a college fund are to be paid into an account at a bank approved by the chief executive officer.

(2) A student residential college is to have only one such bank account for each college fund except to the extent that the chief executive officer approves otherwise.

(3) The bank account or accounts may only be operated jointly by 2 or more office-holders, or persons belonging to a class, designated under subsection (4).

(4) The chief executive officer is to designate for each student residential college the office-holders or class of persons who may act under subsection (3).

(5) In this section —

bank means —

(a) an ADI (authorised deposit-taking institution) as defined in the *Banking Act 1959* (Commonwealth) section 5; or

(b) a bank constituted by a law of a State, a Territory or the Commonwealth.

[Section 213U inserted: No. 41 of 2016 s. 11.]

213V. *Financial Management Act 2006* s. 8 and 34, application of to s. 213Q to 213U

Sections 213Q to 213U have effect despite the *Financial Management Act 2006* sections 8 and 34, but nothing in sections 213Q to 213U is to be read as affecting the responsibilities of the chief executive officer as accountable authority under that Act in respect of moneys referred to in section 213T.

[Section 213V inserted: No. 41 of 2016 s. 11.]

213W. Investment of college funds

Moneys forming part of a college fund may, until required to be paid out under section 213S, be invested in the name of the college by the officer designated under section 213S(1) in the manner in which money standing to the credit of the Public Bank Account may be invested under the *Financial Management Act 2006* section 37.

[Section 213W inserted: No. 41 of 2016 s. 11.]

213X. Dealing with college funds on closure or amalgamation of a college

(1) If a student residential college is closed or amalgamated with another college —

(a) subject to subsection (2), moneys in a college fund are to be dealt with as the chief executive officer may direct; and

(b) the bank account for the fund may be operated by the chief executive officer for the purpose of giving effect to such a direction.

(2) However —

(a) money paid under a licence to which section 213K applies as a security for the performance of an obligation may only be applied in accordance with the licence; and

(b) subsection (1)(a) only applies to that money if the money has been forfeited under, and in accordance with, the licence.

[Section 213X inserted: No. 41 of 2016 s. 11.]

Subdivision 2 — Student Residential Colleges Fund

[Heading inserted: No. 41 of 2016 s. 11.]

213Y. Student Residential Colleges Fund

(1) An account called the Student Residential Colleges Fund is established for the department.

(2) The Student Residential Colleges Fund is an agency special purpose account under the *Financial Management Act 2006* section 16.

(3) The following are to be credited to the Student Residential Colleges Fund —

(a) moneys appropriated by Parliament for the purposes of student residential colleges;

(b) moneys borrowed under section 213ZA;

(c) any other moneys received by, made available to or payable to the Minister in the performance of functions under this Act that relate to student residential colleges.

(4) Moneys standing to the credit of the Student Residential Colleges Fund are to be applied in the payment of —

(a) expenditure incurred in the performance of the functions of the Minister under this Part;

(b) the costs of the administration and enforcement of this Act in relation to student residential colleges.

(5) For the purposes of the *Financial Management Act 2006* section 52, the administration of the Student Residential Colleges Fund is to be regarded as a service of the department.

[Section 213Y inserted: No. 41 of 2016 s. 11.]

213ZA. Minister's power to borrow money

(1) The Minister may, if the Treasurer approves, borrow sums of money from the Western Australian Treasury Corporation established under the *Western Australian Treasury Corporation Act 1986* for the purposes of this Part.

(2) All sums borrowed under subsection (1) are to be credited to the Student Residential Colleges Fund.

[Section 213ZA inserted: No. 41 of 2016 s. 11.]

Part 6 — Administration

What this Part is about

This Part deals with —

- the functions and powers of the Minister including the power of delegation (Division 1);
- a department of the public service, and its chief executive officer, to assist the Minister in the administration of the Act, other than Part 4 (which is about non-government schools) (Division 2);
- the appointment, management and discipline of teaching staff and other staff (Division 3);
- the establishment of panels to advise on aspects of the operation of the Act (Division 4).

[Note altered: No. 41 of 2016 Pt. 3.]

Division 1 — The Minister

213. Terms used

In this Division —

joint arrangement means an arrangement entered into by the Minister for purposes that are complementary and beneficial to the purposes of school education and which involves any or all of the following —

(a) enabling any property vested in the Minister to be used for the purposes of the arrangement (***joint use property***);

(b) controlling and managing the use of joint use property for the purposes of the arrangement;

(c) sharing the use of joint use property for the purposes of the arrangement and for the purposes of school education;

property means property of every kind, whether real or personal, tangible or intangible, corporeal or incorporeal, and any interest in property.

[Section 213 amended: No. 28 of 2014 s. 30.]

214. "Minister for Education" is body corporate etc.

(1) For the purposes of this Act the Minister is a body corporate with the name "Minister for Education".

(2) The corporate identity of the body corporate referred to in subsection (1) is the same as that continued by section 5 of the Act repealed by section 246 and the continuation of the corporate identity is not affected by the repeal.

(3) The Minister —

(a) has perpetual succession; and

(b) is to have a common seal; and

(c) may sue and be sued in the Minister's corporate name.

215. Property vested in Minister

Property acquired or held for the purposes of this Act is vested in the Minister.

216. Powers of Minister

(1) The Minister may do all things necessary or convenient to be done for the purposes of —

(a) school education; or

(b) furthering the best interests of students and educational programmes in government schools; or

(c) carrying out joint arrangements.

(2) Without limiting subsection (1) the Minister may for any of the purposes mentioned —

(a) acquire, hold, manage, improve, develop and dispose of property or an interest in property; and

(b) accept any gift, grant, devise or bequest if it is absolute or subject to conditions to which the Minister agrees; and

(c) subject to section 217, participate in any business arrangement and acquire, hold and dispose of shares, units or other interests in, or relating to, a business arrangement; and

(d) allow persons to undertake advertising or sponsorship, of the kind and to the extent that is authorised by regulations, in connection with educational activities in government schools; and

(e) enter into any contract or arrangement; and

(f) turn to account any resource or intellectual property that is vested in the Minister; and

(g) apply for, hold, exploit and dispose of any patent, patent rights, design rights, copyright, trademark or similar rights; and

(h) use the expertise and resources of the department to provide consultancy, advisory or other services for profit.

(3) The Minister may for the purpose of furthering education whether in the government or non-government schools —

(a) act as trustee of any trust for educational purposes; or

(b) grant allowances, awards and scholarships.

(4) In exercising any power under this section the Minister may act in conjunction with —

(a) any person or firm, or a public authority; or

(b) any department of the Public Service or any agency of the State or the Commonwealth.

(5) An agreement or arrangement for advertising or sponsorship in relation to a government school is not to be entered into by the principal of the school acting —

(a) in exercise of the power conferred by subsection (2)(d); and

(b) as the subdelegate of the Minister under section 225,

unless the Council for that school has approved the agreement or arrangement.

(6) In subsection (2) —

acquire includes taking on lease or licence or in any other manner in which an interest in property may be acquired;

business arrangement means a company, a partnership, a trust, a joint venture, or an arrangement for sharing profits;

dispose of includes dispose of by way of lease;

participate includes form, promote, establish, enter, manage, dissolve, wind up, and do anything incidental to participating in a business arrangement.

[Section 216 amended: No. 28 of 2014 s. 31; No. 41 of 2016 s. 12.]

217. Treasurer to consider proposals under s. 216(2)(c)

(1) Before the Minister exercises any power conferred by section 216(2)(c) he or she is to —

(a) notify the Treasurer of the proposal; and

(b) seek the Treasurer's approval to it,

unless it is of a kind that the Treasurer has determined in writing need not be so notified.

(2) If the Treasurer approves the proposal, he or she may impose requirements to be complied with by the Minister in connection with it.

(3) The Treasurer may also give directions to be complied with generally by the Minister in the exercise of the powers referred to in subsection (1).

218. Licences by Minister for use of tangible property, other than property relating to student residential colleges

(1) This section applies to a licence granted by the Minister to a person for the use of tangible property that is vested in the

Minister, other than property that relates to a student residential college.

(2) A licence is not to be granted if the use of the property would adversely affect the safety or welfare of students, teaching staff or other persons employed at any school to which the property relates.

(3) A licence —

(a) must be in writing; and

(b) may provide for a payment to be made by the licensee in connection with the use of the property; and

(c) may provide for an amount of money to be paid by the licensee as security for the performance of the licensee's obligations under the licence; and

(d) is otherwise to be on such terms and subject to such conditions as the Minister thinks fit.

(4) A licence granted for the use of property that is not in use by the school to which the property relates —

(a) is not to be granted for a period of more than —

(i) in the case of a licence granted by a subdelegate acting under section 225 — 2 years; or

(ii) otherwise — 5 years;

and

(b) may be renewed once or more than once for a period or successive periods, each not exceeding the period allowed under paragraph (a)(i) or (ii).

(5) The use of property in respect of which a licence referred to in subsection (4) applies must not interfere with the normal operations of the school to which the property relates.

(6) A licence granted for the purposes of a joint arrangement may provide for all things necessary or convenient to be done for the purpose of furthering the joint arrangement, including —

(a) the establishment, composition, powers and duties of a management committee to manage and control the use of the property in accordance with the licence and the joint arrangement; and

(b) setting out how the property is to be shared and how disputes as to the use of the property are to be resolved; and

(c) the provision of facilities relating to the property; and

(d) payment to be made to the Minister by the licensee by way of contribution towards the costs incurred in the provision of any facilities; and

(e) the appointment and remuneration of staff with respect to the use of the property and any facilities.

[Section 218 inserted: No. 28 of 2014 s. 32; amended: No. 41 of 2016 s. 13.]

*[**219.** Deleted: No. 28 of 2014 s. 32.]*

220. When money paid under licence to be paid to school's General Purposes Fund

Where —

(a) a licence referred to in section 218(4) —

(i) relates to property in respect of a particular school; and

(ii) requires an amount of money to be paid in accordance with section 218(3)(b) or (c);

and

(b) the licence is granted by a subdelegate of the Minister acting under section 225 and the subdelegation expressly states that this section is to apply,

subject to section 111(4), the money is to be credited to the General Purposes Fund of the school in accordance with section 112(1)(d).

[Section 220 amended: No. 28 of 2014 s. 33.]

221. When money paid for advertising or sponsorship to be paid to school's General Purposes Fund

(1) Where —

(a) an agreement or arrangement for advertising or sponsorship in relation to a government school is entered into by the principal of the school acting —

(i) in exercise of the power conferred by section 216(2)(d); and

(ii) as the subdelegate of the Minister under section 225; and

(b) the subdelegation expressly states that this section is to apply,

any money payable for the advertising or sponsorship is to be credited to the General Purposes Fund of the school in accordance with section 112(1)(d).

(2) The Minister is to ensure that a subdelegation does not state that this section is to apply unless the application of the section in the particular case is in accordance with the fair distribution across government schools of the benefits of advertising and sponsorship.

222. Exempting school from Act, Minister's powers as to

(1) The Minister may, by order published in the *Government Gazette* —

(a) exempt a school or class of schools —

(i) from the provisions of this Act that are specified in the order; and

(ii) for a period not exceeding 3 years as specified in the order;

and

(b) amend or repeal an order made under paragraph (a); and

(c) renew an order made under paragraph (a) for a one year period only by making the order to renew at least 6 months before the original order expires.

(2) An exemption given for the purposes of this section is of no effect at any time when a condition imposed in relation to the exemption is being contravened.

(3) Section 42 of the *Interpretation Act 1984* applies to an order, the amendment or repeal of an order or the renewal of an order under subsection (1) as if the order were regulations within the meaning of that Act, except that the reference in section 42(1) of that Act to 6 sitting days is, for the purposes of its application to the order, to be construed as a reference to 9 sitting days.

(4) The Minister is to ensure that the reasons in support of an order, the amendment or repeal of an order or the renewal of an order under subsection (1) are laid before each House of Parliament in accordance with section 42 of the *Interpretation Act 1984* as it applies under subsection (3) of this section.

223. Decision as to individual student, review of by Minister

(1) A person who is aggrieved by a decision —

(a) made by any person performing a function for the purposes of school education; and

(b) concerning an individual student,

may, in addition to any other right under this Act to have the decision reviewed, request the Minister to review the procedure by which the decision was made.

(2) The Minister may, but is not obliged to, conduct a review under this section.

(3) If, on a review under this section, the Minister is of the opinion that —

(a) the decision was made without compliance with the applicable procedure; or

(b) the procedure by which the decision was made was unfair, defective or inadequate; or

(c) the information available to the person who made the decision was inadequate,

the Minister may recommend that the person who made the decision review the procedure or reconsider the decision and may recommend the procedure or information that the Minister thinks is appropriate for that review or reconsideration.

(4) The regulations may regulate the practice and procedure of reviews under this section.

(5) Nothing in this section affects the jurisdiction that the Parliamentary Commissioner for Administrative Investigations has under the *Parliamentary Commissioner Act 1971*.

224. Delegation by Minister

(1) The Minister may, by instrument, delegate to the chief executive officer the performance of any of the Minister's functions except those under section 54, 168, 201, 222 or 223.

(2) Subsection (1) has effect subject to sections 11(6) and 21(2).

(3) A delegation may be general or as otherwise provided by the instrument of delegation.

(4) Where the chief executive officer performs a function of the Minister he or she is to be taken to do so in accordance with the terms of a delegation under this section, unless the contrary is shown.

(5) Performance of a function by the chief executive officer under this section is to be treated as performance by the Minister.

225. Subdelegation by CEO, Minister may permit

(1) The Minister may, in an instrument by which a function is delegated to the chief executive officer under section 224, authorise the chief executive officer to subdelegate that function to —

(a) a specified officer; or

(b) the holder or holders for the time being of a specified office or class of office.

(2) Apart from subsection (1), a delegation under section 224 does not include the power to subdelegate.

(3) Section 59 of the *Interpretation Act 1984* applies to a subdelegation under this section in the same way as it applies to a delegation.

(4) In this section —

officer means a person who comes within a class referred to in section 235(1), and ***office*** has a corresponding meaning.

226. Documents presumed duly executed

When a document is produced bearing a seal purporting to be the common seal of the Minister, it is to be presumed until the contrary is shown that the seal is the seal of the Minister and has been duly affixed.

227. Application of *Financial Management Act 2006*

Any acts or things done by the Minister under Part 6A or this Division are to be regarded —

(a) as services under the control of the department for the purposes of section 52 of the *Financial Management Act 2006*; and

(b) as operations of the department for the purposes of Part 5 of that Act.

[Section 227 amended: No. 77 of 2006 Sch. 1 cl. 154(4); No. 41 of 2016 s. 14.]

Division 2 — The department

228. Department to assist in administration of Act, other than in relation to non-government schools and students attending non-government schools

There is to be a department of the Public Service with a function of principally assisting the Minister in the administration of this Act, other than in relation to —

(a) Part 4; and

(b) the application of any other provision of this Act (except Part 6A) to students enrolled at non-government schools.

[Section 228 amended: No. 41 of 2016 s. 15.]

229. Term used: chief executive officer

References in this Act, other than Part 4, to the chief executive officer are, unless a contrary intention appears, references to the chief executive officer appointed for the department under section 45 of the *Public Sector Management Act 1994*.

230. Delegation by chief executive officer

(1) The chief executive officer may, by instrument, delegate to an officer the performance of any of the functions conferred on the chief executive officer by this Act except this power of delegation.

(2) A delegation may be general or as otherwise provided by the instrument of delegation.

(3) Where an officer performs a function of the chief executive officer he or she is to be taken to do so in accordance with the terms of a delegation under this section, unless the contrary is shown.

(4) Performance of a function by an officer under this section is to be treated as performance by the chief executive officer.

(5) In this section —

officer means a person who comes within a class referred to in section 235(1).

231. Minister may direct chief executive officer

The Minister may give directions in writing of a general nature to the chief executive officer with respect to the performance of the chief executive officer's functions under this Act but the Minister cannot give a direction in relation to a particular person.

232. Chief executive officer may direct principal

The chief executive officer may give directions in writing to the principal of a government school with respect to the performance of the principal's functions under this Act, either generally or in relation to a particular matter, and the principal is to give effect to any such direction.

233. CEO's Instructions, issue of etc.

(1) The chief executive officer may prepare and issue instructions (***CEO's Instructions***) to be observed by persons performing functions in the department.

(2) The CEO's Instructions must not be inconsistent with this Act.

(3) Sections 9, 10, 15, 43(4) and 43(7) to (9) of the *Interpretation Act 1984* apply to the CEO's Instructions as if they were regulations.

(4) A breach of the CEO's Instructions committed by a person is not to be an offence but is to be treated for the purposes of paragraph (a) of section 80 of the *Public Sector Management Act 1994* (including that paragraph as applied by section 239) as the disobedience by that person of a lawful order.

Division 3 — Staff employed in the department

234. Terms used

In this Division —

other officers means officers referred to in section 235(1)(c);

PSMA means the *Public Sector Management Act 1994*;

teaching staff means teaching staff referred to in section 235(1)(b).

235. Categories of staff to be employed

(1) To enable the functions of the department to be performed persons are to be employed in the department —

(a) as public service officers appointed or made available under Part 3 of the PSMA; or

(b) as members of the teaching staff; or

(c) as other officers; or

(d) as wages staff.

(2) A person is not to be employed as a member of the teaching staff unless the person holds a qualification recognized by the chief executive officer as being an appropriate qualification.

(3) Subsection (1) does not affect the power of the chief executive officer to engage a person under a contract for services under section 100 of the PSMA.

236. Engaging etc. teaching staff, other officers and wages staff

(1) Part 3 of the PSMA does not apply to the teaching staff, other officers and wages staff.

(2) The powers to engage, transfer, promote and otherwise manage the members of the teaching staff, other officers and wages staff are vested in the chief executive officer.

(3) The terms and conditions of service of members of the teaching staff, other officers and wages staff are to be —

(a) in accordance with any relevant industrial award, order or agreement; and

(b) not less than those provided for by the *Minimum Conditions of Employment Act 1993*.

(4) Members of the teaching staff and other officers may be engaged —

(a) on a full-time or part-time basis; and

(b) for an indefinite period as permanent officers, or for a period not exceeding 5 years.

(5) Nothing in this section affects the operation of Part VID of the *Industrial Relations Act 1979*.

(6) For the avoidance of doubt it is declared that members of the teaching staff, other officers and wages staff are employed for and on behalf of the Crown.

[Section 236 amended: No. 20 of 2002 s. 27; Gazette 15 Aug 2003 p. 3692.]

237. Teaching staff, classes of

Without limiting section 29(1)(h) of the PSMA the teaching staff is to consist of the following classes —

(a) school administrators, that is —

(i) principals; and

(ii) any other office or position, or class of office or position, prescribed by the regulations;

and

(b) teachers other than school administrators; and

(c) any other class prescribed by the regulations.

238. Transfer etc. of teacher to another category of employee

(1) The chief executive officer may, if he or she considers that it is in the interests of the department to do so, determine that —

(a) a person who is a member of the teaching staff is to become an officer of the class mentioned in section 235(1)(a) or (c); or

(b) a person who has been the subject of a determination under paragraph (a) of this subsection is to again become a member of the teaching staff.

(2) Except where section 239(2) applies, a determination under subsection (1) of this section is only to be made with the consent of the person concerned.

(3) Regulations may be made in respect of the entitlement of persons who are the subject of a determination under subsection (1) to rights and benefits that had accrued or were accruing at the time when the determination took effect.

239. Teaching staff and other officers, substandard performance by and discipline of

(1) Part 5 of the PSMA has effect as if in that Part references to —

(a) an employee included —

(i) a member of the teaching staff; and

(ii) an officer who comes within section 235(1)(c);

and

(b) an employing authority included references to the chief executive officer.

(2) In addition to —

(a) the actions that may be taken under section 79(3) of the PSMA; and

(b) any disciplinary action or improvement action that may be taken under section 82A(3)(b) or 88(b) of the PSMA,

the chief executive officer may under those provisions make a determination under section 238(1)(a) in respect of a member of the teaching staff.

(3) Without limiting section 80 of the PSMA, a contravention of this Act is to be taken to be a breach of discipline for the purposes of that section.

[Section 239 amended: No. 39 of 2010 s. 110(2) and (3).]

240. Employee may be ordered to leave school premises

(1) If the chief executive officer suspects —

(a) that a person employed at the premises of a government school or a student residential college may have committed a breach of discipline as referred to in section 80 of the PSMA (whether or not that section applies to the person); and

(b) that the presence of the person —

(i) on the premises of that school or college constitutes a risk to the safety or welfare of students at the premises; or

(ii) on the premises of any government school or any student residential college constitutes a risk to the safety or welfare of students generally,

the chief executive officer may, by order in writing given to the person, require the person to leave the premises of the school or college specified in the order and remain away from those premises, or from the premises of all government schools or all student residential colleges, or both, as the case requires —

(c) until —

(i) in the case of a member of the wages staff, any relevant procedures have been followed; or

(ii) in the case of a suspected breach of discipline dealt with under Part 5 of the PSMA — a

decision is made under section 81(1)(b), 82A(2) or (3) or 88 of the PSMA;

or

(d) until the order is sooner revoked.

(2) The chief executive officer is to ensure that written reasons for issuing an order under subsection (1) are provided with the order.

(3) A person must comply with an order given to him or her under subsection (1).

Penalty: a fine of $5 000.

(4) The power conferred by this section is in addition to the powers in Part 5 of the PSMA.

[Section 240 amended: No. 50 of 2003 s. 94(2); No. 39 of 2010 s. 110(4); No. 28 of 2014 s. 34 and 35; No. 41 of 2016 s. 16.]

Division 4 — Advisory panels

241. Advisory panels, establishing etc.

(1) Without limiting section 39, 87 or 93 the Minister may establish advisory panels for the purposes of this Act.

(2) The Minister is to determine —

(a) provisions for the membership, constitution, procedures and discharge of an advisory panel; and

(b) in what circumstances and on what matters the panel is to advise.

(3) The members of an advisory panel are to be persons who have such experience, skills, attributes or qualifications as the Minister considers appropriate to enable them to effectively perform their advisory function.

(4) Subject to this section, an advisory panel may determine its own procedure.

(5) In performing its functions in relation to a particular child or student, or class of children or students, an advisory panel may have regard to the social, cultural, lingual, economic or geographic factors, or learning difficulties, that might be relevant to the matter before the panel.

(6) The Minister is to ensure that each advisory panel is provided with such support services as it may reasonably require.

(7) The Minister may —

(a) direct that some or all of the members of an advisory panel are to be paid remuneration or allowances or both; and

(b) determine the amount of any such payments on the recommendation of the Public Sector Commissioner.

[Section 241 amended: No. 39 of 2010 s. 89.]

Part 7 — Miscellaneous

What this Part is about

This Part deals with —

- the requirement of confidentiality (section 242);
- who can take legal proceedings (section 243);
- the regulations required for carrying out the Act (section 244);
- a review of the Act after 5 years (section 245);
- the repeal of the *Education Act 1928* (section 246);
- the transition from that Act to this Act, and various other subsequent statutory transitions (Schedule 1).

[Note altered: No. 41 of 2016 Pt. 3.]

242. Disclosure of official information restricted

(1) A person must not disclose or make use of information to which this section applies except —

(a) in the course of duty; or

(b) for the purpose of proceedings for an offence against this Act; or

(c) under and in accordance with this Act or any other law; or

(d) with the authority of the Minister or all persons to whom the information relates; or

(e) in other prescribed circumstances.

Penalty: a fine of $5 000.

(2) This section applies to information contained in any register or document of or in the possession or under the control of —

(a) the Minister; or

(b) the chief executive officer or the chief executive officer referred to in section 151, as is relevant to the case; or

(c) the department or the department referred to in section 228, as is relevant to the case; or

(d) the principal of a government school; or

(e) a panel appointed for the purposes of this Act.

[Section 242 amended: No. 50 of 2003 s. 94(2); No. 28 of 2014 s. 35.]

243. Prosecutions and s. 109 recovery action, who may commence; evidentiary matters

(1) Any proceedings for an offence under this Act, other than for an offence under section 45, and any proceedings under section 106 may be taken in the name of the chief executive officer or a person authorised in that behalf by the chief executive officer.

(2) In any proceedings no proof is required of —

(a) the appointment of the chief executive officer; or

(b) the authorisation of a person under subsection (1),

but an averment in a prosecution notice that the person is so appointed or authorised is to be taken to be proved in the absence of evidence to the contrary.

(3) Subsection (1) does not limit the ability of a person to commence or conduct the prosecution of an offence if the person has authority at law to do so.

[Section 243 amended: No. 84 of 2004 s. 80.]

244. Regulations

(1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for carrying out, or giving effect to the purposes of, this Act.

(2) Without limiting subsection (1) the regulations may —

(a) create offences punishable by a fine not exceeding $2 000; and

(ba) make provision for requirements as to the health and safety of children enrolled at a school or a community kindergarten registered under Part 5; and

(b) confer power on the Minister to grant exemptions from provisions of the regulations, and to impose conditions subject to which an exemption applies; and

(c) regulate the practice and procedure of advisory panels established by or under this Act.

(3) Regulations for the purposes of section 216(2)(d) may provide for —

(a) the duration of an agreement or arrangement for advertising or sponsorship in relation to a government school; and

(b) naming rights in relation to advertising or sponsorship in relation to a government school; and

(c) the means of ensuring that advertising or sponsorship in relation to a government school does not interfere with the normal operations of the school; and

(d) the extent to which teaching materials may be involved in advertising or sponsorship in relation to a government school.

[Section 244 amended: No. 1 of 2011 s. 9.]

245. Review of Act

(1) The Minister is to carry out a review of the operation and effectiveness of this Act not later than 5 years after its commencement.

(2) The Minister is to prepare a report based on the review carried out under subsection (1) and, as soon as practicable after that preparation, is to cause that report to be laid before each House of Parliament.

246. Repeal, savings and transitional

(1) The *Education Act 1928* is repealed.

(2) The *Education Regulations 1960* are repealed.

(3) The *School Premises Regulations 1981* are repealed.

(4) Schedule 1 has effect to make transitional provisions.

*[**247.** Omitted under the Reprints Act 1984 s. 7(4)(e).]*

Schedule 1 — Transitional provisions

[Section 246(4)]

Division 1 — Transitional provisions for the commencement of this Act

[Heading inserted: No. 11 of 2012 s. 47.]

1. Terms used

In this Division —

commencement means the commencement of this Act;

repealed Act means the *Education Act 1928*.

[Clause 1 amended: No. 41 of 2016 s. 17.]

2. *Interpretation Act 1984* not affected

The provisions of this Division do not affect the application of the *Interpretation Act 1984* to and in relation to the —

(a) repeal effected by section 246; or

(b) any other aspect of the operation of this Act.

[Clause 2 amended: No. 41 of 2016 s. 18.]

3. Property vested in Minister at 1 Jan 2001

All property that immediately before the commencement is vested in the Minister under section 6 of the repealed Act is, on the commencement, vested in the Minister for the purposes of section 215.

4. Delegation in force at 1 Jan 2001 under repealed Act s. 6AA

A delegation under section 6AA of the repealed Act that is in force immediately before the commencement is to be taken on the commencement to be a delegation under section 224.

5. Agreement or licence in force at 1 Jan 2001 under repealed Act s. 6A

An arrangement entered into, and a licence granted, under section 6A of the repealed Act that are in force immediately before the

commencement are to be taken on the commencement to be respectively —

(a) an arrangement entered into under section 219; and

(b) a licence to give effect to that arrangement granted in terms of subsection (2) of that section.

6. Licence in force at 1 Jan 2001 under repealed Act s. 6B

(1) Section 218(3) applies to a licence under section 6B of the repealed Act for the use of tangible property vested in the Minister that is in force immediately before the commencement.

(2) Section 220 applies to a licence referred to in subclause (1) if immediately before the commencement it came within section 6C of the repealed Act.

7. Staff appointed etc. as at 1 Jan 2001 under repealed Act s. 7(2)

(1) A person —

(a) appointed by the Minister as a teacher in the Education Department under section 7(2) of the repealed Act; and

(b) holding office as such immediately before the commencement,

is to be taken on the commencement to have been engaged as a member of the teaching staff under section 236(2).

(2) A person —

(a) appointed by the Minister as an employee (other than as a teacher) in the Education Department under section 7(2) of the repealed Act; and

(b) employed under that section immediately before the commencement,

is to be taken on the commencement to have been engaged as an officer (not being a member of the teaching staff) referred to in section 236(2).

(3) The operation of this clause in relation to a person's employment does not —

(a) affect the person's remuneration or terms and conditions of employment; or

(b) prejudice the person's existing or accruing rights; or

(c) affect any rights under a superannuation scheme; or

(d) interrupt continuity of service.

8. Inquiry incomplete at 1 Jan 2001 under repealed Act s. 7C

(1) If before the commencement an inquiry under section 7C(3) of the repealed Act has begun in relation to a teacher, the inquiry may continue and be completed and —

(a) the chief executive officer may exercise powers under the section; and

(b) the section otherwise applies,

in relation to the teacher as if the section had not been repealed.

(2) For the purposes of subsection (1) an inquiry has begun under section 7C(3) if the chief executive officer has in writing requested a person to hold the inquiry.

9. Enrolment in effect at 1 Jan 2001

(1) The enrolment of a student at a government school that has effect immediately before the commencement is to be taken as an enrolment under this Act.

(2) Subclause (1) applies whether or not the enrolment is in accordance with Division 4 of Part 3, but does not limit the exercise of the powers in section 20, 83 or 92(6).

10. Government school in existence at 1 Jan 2001 under repealed Act s. 9

(1) A government school that immediately before the commencement is in existence as a primary school or a secondary school under section 9 of the repealed Act is to be taken on the commencement to have been established under section 55 with the same classification.

(2) If, within 6 months of the commencement, the chief executive officer declares a government school to be a local-intake school the area for the purposes of section 60(1)(b) in relation to the school is to be taken to be the area described in relation to the school in a notice under section 21(2) of the repealed Act, unless the chief executive officer otherwise defines the area.

11. Efficient school registered at 1 Jan 2001 under repealed Act s. 32B

(1) A school that immediately before the commencement is registered in the register of efficient schools under section 32B of the repealed Act is to be taken on the commencement to be registered under section 160.

(2) If a school referred to in subclause (1) is included in an order under section 169 it is to be taken to be registered as a system school for the purposes of section 156(2).

(3) Subject to Part 4, the registration provided for by subclause (1) continues in force for 3 years from the commencement.

12. Certain pre-school centres at 1 Jan 2001 continued as registered schools

(1) A pre-school centre —

(a) for which a permit was in force under Part VIA of the repealed Act immediately before the commencement; and

(b) which does not have on its staff any employee who comes within a class referred to in section 235(1),

is to be taken after the commencement to be registered under section 160 as a non-system school as if the permit were a certificate of registration under section 162.

(2) Subject to Part 4, the registration provided for by subclause (1) continues in force for 3 years from the commencement.

13. Certain care-centres and pre-school centres as at 1 Jan 2001 continued

(1) A care-centre or a pre-school centre —

(a) for which a permit was in force under Part VIA of the repealed Act immediately before the repeal; and

(b) which has on its staff any employee who comes within a class referred to in section 235(1),

may continue in operation, but is to be known as a community kindergarten.

(2) A permit referred to in subclause (1) continues in force as a registration under Part 5.

(3) Despite sections 192 and 199(1)(a), a child may attend a community kindergarten continued by this clause in a year other than the first year of the child's pre-compulsory education period until 1 January 2001.

*[**14.** Deleted: No. 43 of 2000 s. 62.]*

15. Notices etc. in force at 1 Jan 2001 under repealed Act s. 9A

(1) A notice under section 9A(2) of the repealed Act that is in force immediately before the commencement is to be taken on the commencement to be an order under section 183.

(2) Guidelines referred to in section 9A(5)(b) of the repealed Act that are in operation immediately before the commencement continue in operation after the commencement for the purposes of section 184(b).

16. Approved account as at 1 Jan 2001 under repealed Act s. 9B

A bank account that immediately before the commencement is an approved account for the purposes of section 9B(5)(b) of the repealed Act is to be taken on the commencement to have been approved for the purposes of section 113(1).

17. Decision as to home education in force at 1 Jan 2001 under repealed Act s. 14(a)

A decision under section 14(a) of the repealed Act (that the instruction of a child at home is efficient) that is in force immediately before the

commencement is to be taken on the commencement to be a registration under section 48.

18. Direction in force at 1 Jan 2001 under repealed Act s. 20A

A direction under section 20A of the repealed Act that is in force immediately before the commencement continues in force despite the repeal but may at any time be revoked by the chief executive officer.

19. Student suspended or excluded as at 1 Jan 2001

(1) A suspension under section 20G(1) of the repealed Act that is in force immediately before the commencement is to be taken on the commencement to be a suspension under section 90.

(2) If before the commencement a recommendation has been made under section 20G(2) of the repealed Act but no determination has been made by the Minister, the recommendation is to be treated after the commencement as if it had been made to the chief executive officer under section 92(1).

(3) An order under section 20G(4) of the repealed Act that is in force immediately before the commencement —

(a) is to be taken on the commencement to be an order made by the chief executive officer under section 92(6); and

(b) may be revoked or amended under section 94(3).

20. School decision-making group in being at 1 Jan 2001 under repealed Act Part VA

(1) A school decision-making group for a government school that immediately before the commencement is in existence under Part VA of the repealed Act is to be taken on the commencement to be the Council established for the school under section 125.

(2) Regulations may be made under section 244 providing for —

(a) the way in which matters relating to Councils referred to in subclause (1) are to be changed so that they conform to the requirements of Subdivision 1 of Division 8 of Part 3; and

(b) the time by which those changes are to be made.

21. Parents and Citizens' Association in being at 1 Jan 2001 under repealed Act Part VI

A Parents and Citizens' Association for a government school or group of schools that immediately before the commencement is in existence under Part VI of the repealed Act is to be taken on the commencement to be the Parents and Citizens' Association formed for the school or group of schools under section 142.

22. Repeal of *Industrial Relations Act 1979* s. 23B, transitional

An appeal in respect of any matter referred to in section 23B(1)(a), (b) or (c) of the *Industrial Relations Act 1979* arising before the commencement of this Act may be —

(a) determined; or

(b) heard and determined; or

(c) instituted, heard and determined,

as the case requires, under the *Industrial Relations Act 1979* as if section 23B of that Act had not been repealed by this Act.

23. Transitional regulations

(1) If there is no sufficient provision in this Division for dealing with a matter that needs to be dealt with for the purpose of the transition from the repealed Act to this Act, regulations may prescribe all matters that are required or necessary or convenient to be prescribed for dealing with the matter.

(2) Regulations under subclause (1) may provide that specific provisions of this Act or of subsidiary legislation made under this Act —

(a) do not apply; or

(b) apply with or without specified modifications,

to or in relation to any matter or thing.

(3) Regulations under subclause (1) may have effect before the day on which they are published in the *Government Gazette*.

(4) To the extent that a regulation under subclause (1) has effect before the day of its publication in the *Government Gazette*, it does not —

(a) affect in a manner prejudicial to any person (other than the State), the rights of that person existing before the day of its publication; or

(b) impose liabilities on any person (other than the State) in respect of anything done or omitted to be done before the day of its publication.

[Clause 23 amended: No. 41 of 2016 s. 19.]

Division 2 — Transitional provisions for the *Education and Care Services National Law (WA) Act 2012*

[Heading inserted: No. 11 of 2012 s. 48.]

24. Term used: commencement

In this Division —

commencement means the commencement of the *Education and Care Services National Law (WA) Act 2012* section 48.

[Clause 24 inserted: No. 11 of 2012 s. 48.]

25. Registration extended for a period of time

(1) If, immediately before commencement, a non-government school was providing a kind of education referred to in section 156(3)(c), then after commencement, the registration of the school under section 160 is to be taken to extend to the provision of that kind of education.

(2) Subject to Part 4, the registration provided for by subclause (1) continues in force for 3 years from the commencement.

[Clause 25 inserted: No. 11 of 2012 s. 48.]

Division 3 — Transitional provisions for the *School Education Amendment Act 2014*

[Heading inserted: No. 28 of 2014 s. 21.]

26. Terms used

In this Division —

commencement means the commencement of the *School Education Amendment Act 2014* Part 2 Division 2;

former provisions means this Act as in force immediately before commencement.

[Clause 26 inserted: No. 28 of 2014 s. 21.]

27. *Interpretation Act 1984* not affected

Except to the extent this Division or regulations made under clause 32 expressly provide otherwise, the *Interpretation Act 1984* Part V applies in relation to the amendments effected by the *School Education Amendment Act 2014*.

[Clause 27 inserted: No. 28 of 2014 s. 21.]

28. Pending applications and reviews of certain decisions

(1) In this clause —

pending application means an application under section 157 or 158 made, but not determined, before commencement.

(2) The former provisions continue to apply in relation to the determination of a pending application.

(3) The former provisions continue to apply in relation to an application for, and the determination of, a review under section 168 of —

(a) a decision made under this Act before commencement; or

(b) a decision made on a pending application to refuse to register a school.

[Clause 28 inserted: No. 28 of 2014 s. 21.]

29. Application for imminent renewal of registration

(1) In this clause —

application for imminent renewal of registration means an application under Part 4 for the renewal of registration of a school —

(a) made, but not determined, before commencement; or

(b) made after commencement where the current period of registration ends within 12 months after commencement.

(2) The former provisions continue to apply in relation to the determination of an application for the imminent renewal of registration.

[Clause 29 inserted: No. 28 of 2014 s. 21.]

30. Advance determinations under former provisions continue

(1) In this clause —

advance determination under the former provisions means an advance determination —

(a) that is in force under section 157 of the former provisions immediately before commencement; or

(b) made by the Minister under section 157 of the former provisions on a pending application under clause 28.

(2) On and after commencement, an advance determination under the former provisions is to be taken to be an advance determination made under section 157B and for that purpose a reference in this Act to information provided under section 157A is to be taken to be a reference to information provided under section 157 of the former provisions.

[Clause 30 inserted: No. 28 of 2014 s. 21.]

31. Directions in force before commencement

Section 167A does not apply in relation to a direction given under section 166 that is in force immediately before commencement.

[Clause 31 inserted: No. 28 of 2014 s. 21.]

32. Transitional regulations

(1) If there is no sufficient provision in this Division for dealing with a transitional matter, the Governor may make regulations prescribing all matters that are required or necessary or convenient to be prescribed in relation to that matter.

(2) In subsection (1) —

transitional matter means a matter that needs to be dealt with for the transition required because of the enactment of the *School Education Amendment Act 2014*.

(3) Regulations made under subsection (1) may provide that specific provisions of any written law —

(a) do not apply in relation to any matter; or

(b) apply with specific modifications in relation to any matter.

(4) If regulations made under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than commencement, the regulations have effect according to their terms.

(5) In subsection (4) —

specified means specified or described in the regulations.

(6) If regulations contain a provision referred to in subsection (4), the provision does not operate so as —

(a) to affect in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the regulations were published in the *Gazette*; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in relation to anything done or omitted to be done before the regulations were published in the *Gazette*.

[Clause 32 inserted: No. 28 of 2014 s. 21.]

Division 4 — Transitional provisions for the *School Boarding Facilities Legislation Amendment and Repeal Act 2016*

[Heading inserted: No. 41 of 2016 s. 20.]

33. Terms used

In this Division, unless the contrary intention appears —

1960 Act means the *Country High School Hostels Authority Act 1960*;

assets means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description, and includes money and securities, choses in action and documents;

commencement day means the day on which the *School Boarding Facilities Legislation Amendment and Repeal Act 2016* section 20 comes into operation;

former Authority means the Country High School Hostels Authority —

(a) established under the 1960 Act section 4; and

(b) as in existence immediately before commencement day;

hostel has the meaning given in the 1960 Act section 3;

liability means any liability, duty or obligation whether actual, contingent or prospective, liquidated or unliquidated, or whether owed alone or jointly or jointly and severally with any other person;

right means any right, power, privilege or immunity whether actual, contingent or prospective.

[Clause 33 inserted: No. 41 of 2016 s. 20.]

34. Hostels

On commencement day, each hostel ceases to be a hostel and becomes, by force of this clause, a student residential college taken to have been established under section 213B.

[Clause 34 inserted: No. 41 of 2016 s. 20.]

35. Hostel land

(1) In this clause —

hostel land means land the care, control and management of which was, immediately before commencement day, placed with the Authority in accordance with the 1960 Act section 11.

(2) On commencement day, hostel land ceases to be under the care, control and management of the former Authority and is placed under the care, control and management of the Minister by force of this clause.

[Clause 35 inserted: No. 41 of 2016 s. 20.]

36. Former Authority abolished

On commencement day, the former Authority is abolished and its members go out of office.

[Clause 36 inserted: No. 41 of 2016 s. 20.]

37. Staff members of former Authority

(1) In this clause —

staff member of the former Authority means a person who, immediately before commencement day, was an officer or servant of the former Authority appointed under the 1960 Act section 10.

(2) At commencement day each staff member of the former Authority becomes a person employed in the department within the class of employees referred to in section 235(1)(c) or (d), as is relevant in accordance with any relevant industrial award or agreement applying to the staff member immediately before commencement day.

(3) Except as otherwise agreed by a person mentioned in subclause (2) the operation of this clause does not —

(a) affect the person's remuneration; or

(b) affect the person's existing or accruing rights in respect of annual leave, long service leave, sick leave or any other leave; or

(c) affect any rights under a superannuation scheme; or

(d) interrupt the continuity of the person's service.

(4) For the purposes of subclause (3)(d), the staff member's service with the former Authority is to be taken to have been with the department.

[Clause 37 inserted: No. 41 of 2016 s. 20.]

38. Transfer of assets, liabilities, proceedings, remedies and immunities

(1) On commencement day—

(a) the assets and rights of the former Authority immediately before that day vest in or become, by force of this clause, the property of the Minister; and

(b) the liabilities of the former Authority immediately before that day become, by force of this clause, the liabilities of the Minister.

(2) From commencement day, any proceedings or remedy that, immediately before that day, might have been brought or continued by or available against or to the former Authority may be brought or continued by, and are or is available against or to, the Minister.

(3) As soon as is practicable after commencement day, all papers, documents, minutes, books of account and other records (however compiled, recorded or stored) relating to the operations of the former Authority are to be delivered to the Minister.

(4) As soon as is possible after commencement day, any account maintained by the former Authority must be closed by the Minister and the moneys in the account credited to the Student Residential Colleges Fund.

[Clause 38 inserted: No. 41 of 2016 s. 20.]

39. Completion of things commenced

Anything commenced to be done by the former Authority before commencement day may be continued by the Minister so far as the doing of that thing is within the functions of the Minister.

[Clause 39 inserted: No. 41 of 2016 s. 20.]

40. Continuing effect of things done

(1) In this clause —

relevant act means an act, matter or thing done or omitted to be done before commencement day by, to or in respect of the former Authority.

(2) To the extent that a relevant act has force or significance on or after commencement day it is to be taken, from that day, to have been done or omitted by, to or in respect of the Minister so far as the act, matter or thing is relevant to the functions of Minister.

(3) This clause does not affect the operation of any other provision of this Schedule.

[Clause 40 inserted: No. 41 of 2016 s. 20.]

41. Exemption from State tax

(1) In this clause —

State tax includes —

(a) duty under the *Duties Act 2008*; and

(b) any other tax, duty, fee, levy or charge under a law of the State.

(2) State tax is not payable in relation to —

(a) anything that occurs by operation of this Division; or

(b) anything done (including a transaction entered into or an instrument or document of any kind made, executed, lodged or given) under this Division, or to give effect to this Division, or for a purpose connected with or arising out of giving effect to this Division.

(3) The Minister may certify in writing that —

(a) a specified thing occurred by operation of this Division; or

(b) a specified thing was done under this Division, or to give effect to this Division, or for a purpose connected with or arising out of giving effect to this Division.

(4) For all purposes and in all proceedings, a certificate under subclause (3) is sufficient evidence of the matters it certifies, except so far as the contrary is shown.

[Clause 41 inserted: No. 41 of 2016 s. 20.]

42. Agreements, instruments and documents

(1) In this clause —

subsisting, in relation to an agreement, instrument or document, means subsisting immediately before commencement day.

(2) A subsisting agreement, instrument or document that contains a reference to the former Authority has effect from that day as if that reference were amended to be a reference to the Minister.

(3) Subclause (2) does not apply to an agreement or instrument to which the former Authority was a party.

(4) A subsisting agreement or instrument to which the former Authority was a party has effect from commencement day as if —

(a) the Minister were substituted for the former Authority as a party to the agreement or instrument; and

(b) a reference to the former Authority in the agreement or instrument were amended to be a reference to the Minister.

(5) Subclause (2) or (4)(b) does not apply to a reference if —

(a) regulations made under clause 45 provide otherwise; or

(b) that application would be inappropriate in the context in which the reference occurs.

[Clause 42 inserted: No. 41 of 2016 s. 20.]

43. Registration of documents

(1) In this clause —

relevant officials means —

(a) the Registrar of Titles under the *Transfer of Land Act 1893*; or

(b) the Registrar of Deeds and Transfers under the *Registration of Deeds Act 1856*; or

(c) the Minister administering the *Land Administration Act 1997*; or

(d) any other person authorised by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or any other property.

(2) The relevant officials are to take notice of the provisions of this Division and are to record and register in the appropriate manner the documents necessary to show the effect of this Division.

[Clause 43 inserted: No. 41 of 2016 s. 20.]

44. Saving

(1) The operation of any provision of this Division is not to be regarded —

(a) as a breach of contract or confidence or otherwise as a civil wrong; or

(b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities or the disclosure of information; or

(c) as giving rise to any remedy by a party to an instrument or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability; or

(d) as causing any contract or instrument to be void or otherwise unenforceable; or

(e) as releasing or allowing the release of any surety.

(2) This Division is additional to any relevant provisions of the *Interpretation Act 1984*.

[Clause 44 inserted: No. 41 of 2016 s. 20.]

45. Transitional regulations

(1) In this clause —

specified means specified or described in the regulations;

transitional matter —

(a) means a matter or issue of a transitional nature that arises as a result of the transition from the 1960 Act to this Act; and

(b) includes a saving or application matter.

(2) If there is no sufficient provision in this Division for dealing with a transitional matter, regulations under this Act may be made prescribing all matters that are required or necessary or convenient to be prescribed for dealing with the matter.

(3) Regulations made under subclause (2) may provide that specified provisions of any written law —

(a) do not apply to or in relation to any matter; or

(b) apply with specified modifications to or in relation to any matter.

(4) If regulations made under subclause (2) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than commencement day, the regulations have effect according to their terms.

(5) If regulations made under subclause (2) contain a provision referred to in subclause (4), the provision does not operate so as —

(a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the regulations were published in the *Gazette*; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the regulations were published in the *Gazette*.

(6) Regulations made under subclause (2) in relation to a matter referred to in subclause (3) must be made within such period as is reasonable and practically necessary to deal with a transitional matter.

[Clause 45 inserted: No. 41 of 2016 s. 20.]

[Schedule 2 omitted under the Reprints Act 1984 s. 7(4)(e).]

Notes

This is a compilation of the *School Education Act 1999* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
School Education Act 1999	36 of 1999	2 Nov 1999	s. 1 and 2: 2 Nov 1999; Act other than s. 1, 2, 182(3) and 208: 1 Jan 2001 (see s. 2 and *Gazette* 29 Dec 2000 p. 7904)
State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 62	43 of 2000	2 Nov 2000	17 Feb 2001 (see s. 2(2) and *Gazette* 16 Feb 2001 p. 903)
Labour Relations Reform Act 2002 s. 27	20 of 2002	8 Jul 2002	15 Sep 2002 (see s. 2 and *Gazette* 6 Sep 2002 p. 4487)
Sentencing Legislation Amendment and Repeal Act 2003 s. 94	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and *Gazette* 14 May 2004 p. 1445)
Labour Relations Reform (Consequential Amendments) Regulations 2003 r. 21 published in *Gazette* 15 Aug 2003 p. 3685-92			15 Sep 2003 (see r. 2)
Statutes (Repeals and Minor Amendments) Act 2003 s. 107	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
Reprint 1: The *School Education Act 1999* as at 3 Sep 2004 (includes amendments listed above)			
Children and Community Services Act 2004 Sch. 2 cl. 24	34 of 2004	20 Oct 2004	1 Mar 2006 (see s. 2 and *Gazette* 14 Feb 2006 p. 695)
Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7129 (correction in *Gazette* 7 Jan 2005 p. 53))

Short title	Number and year	Assent	Commencement
Acts Amendment (Higher School Leaving Age and Related Provisions) Act 2005 Pt. 2 [3, 4]	22 of 2005	18 Nov 2005	Pt. 2 Div. 1 and 2: 18 Nov 2005 (see s. 2(1)); Pt. 2 Div. 4: 1 Jan 2006 (see s. 2(3)); Pt. 2 Div. 3: 1 Jan 2008 (see s. 2(2))
Financial Legislation Amendment and Repeal Act 2006 s. 4, 5(1), 6 and Sch. 1 cl. 154 [5]	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and *Gazette* 19 Jan 2007 p. 137)
Reprint 2: The *School Education Act 1999* as at 16 Mar 2007 (includes amendments listed above except those in the *Acts Amendment (Higher School Leaving Age and Related Provisions) Act 2005* Pt. 2 Div. 3)			
Training Legislation Amendment and Repeal Act 2008 s. 61	44 of 2008	10 Dec 2008	10 Jun 2009 (see s. 2(2))
Public Sector Reform Act 2010 s. 89 and 110	39 of 2010	1 Oct 2010	s. 89: 1 Dec 2010 (see s. 2(b) and *Gazette* 5 Nov 2010 p. 5563); s. 110: 28 Mar 2011 (see s. 2(b) and *Gazette* 5 Nov 2010 p. 5563)
Health, Safety and Civil Liability (Children in Schools and Child Care Services) Act 2011 Pt. 3	1 of 2011	1 Mar 2011	1 Jan 2013 (see s. 2(b) and *Gazette* 14 Dec 2012 p. 6195)
Curriculum Council Amendment Act 2011 Pt. 3 Div. 4	37 of 2011	13 Sep 2011	1 Mar 2012 (see s. 2(b) and *Gazette* 28 Feb 2012 p. 841)
Education and Care Services National Law (WA) Act 2012 Pt. 4 Div. 7	11 of 2012	20 Jun 2012	1 Aug 2012 (see s. 2(c) and *Gazette* 25 Jul 2012 p. 3411)
School Education Amendment Act 2012 Pt. 2	46 of 2012	29 Nov 2012	s. 3 and 5: 29 Nov 2012 (see s. 2(a)); Pt. 2 other than s. 3 and 5: 1 Jan 2013 (see s. 2(b))
Reprint 3: The *School Education Act 1999* as at 15 Mar 2013 (includes amendments listed above)			

Short title	Number and year	Assent	Commencement
School Education Amendment Act 2014 Pt. 2 (s. 3-35)	28 of 2014	27 Nov 2014	s. 29: 27 Nov 2014 (see s. 2(b)(i)); Pt. 2 Div. 1 and 3 (other than s. 29): 17 Dec 2014 (see s. 2(c) and *Gazette* 16 Dec 2014 p. 4759); Pt. 2 Div. 2: 2 Feb 2015 (see s. 2(c) and *Gazette* 16 Jan 2015 p. 311)
Children and Community Services Legislation Amendment and Repeal Act 2015 Pt. 2 Div. 3 Subdiv. 2	23 of 2015	17 Sep 2015	1 Jan 2016 (see s. 2(b) and *Gazette* 15 Dec 2015 p. 5027)
Associations Incorporation Act 2015 s. 228	30 of 2015	2 Nov 2015	1 Jul 2016 (see s. 2(b) and *Gazette* 24 Jun 2016 p. 2291-2)
Reprint 4: The *School Education Act 1999* as at 19 Feb 2016 (includes amendments listed above except the *Associations Incorporation Act 2015*)			
Public Health (Consequential Provisions) Act 2016 Pt. 3 Div. 25	19 of 2016	25 Jul 2016	24 Jan 2017 (see s. 2(1)(c) and *Gazette* 10 Jan 2017 p. 165)
School Boarding Facilities Legislation Amendment and Repeal Act 2016 Pt. 3	41 of 2016	28 Nov 2016	1 Jul 2017 (see s. 2(b) and *Gazette* 23 Jun 2017 p. 3173)
Public Health Amendment (Immunisation Requirements for Enrolment) Act 2019 Pt. 3	14 of 2019	5 Jul 2019	s. 13: 5 Jul 2019 (see s. 2(a)); s. 14-22: 22 Jul 2019 (see s. 2(b) and *Gazette* 19 Jul 2019 p. 2841)
School Education Amendment Act 2024	13 of 2024	22 Apr 2024	s. 1 and 2: 22 Apr 2024 (see s. 2(a)); Act other than s. 1 and 2: 1 Jul 2024 (see s. 2(b) and SL 2024/111 cl. 2)
Education and Care Services National Law Application Act 2026 Pt. 6 Div. 7	2 of 2026	31 Mar 2026	1 May 2026 (see s. 2(1)(d) and SL 2026/50 cl. 2)

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
School Education Act 1999 s. 182(3) and 208	36 of 1999	2 Nov 1999	To be proclaimed (see s. 2)

Other notes

[1] The provisions in this Act amending the other Acts have been omitted under the *Reprints Act 1984* s. 7(4)(e).

[2] Repealed by the *Children and Community Services Act 2004*.

[3] The *Acts Amendment (Higher School Leaving Age and Related Provisions) Act 2005* s. 4(2) reads as follows:

> (2) When the meaning of "compulsory education period" changes by operation of section 6(b) of the *School Education Act 1999* (inserted by subsection (1)), the change extends to the compulsory education period for a child which, but for the change, would have ended on 31 December 2005.

[4] The *Acts Amendment (Higher School Leaving Age and Related Provisions) Act 2005* s. 21 is a transitional provision of no further effect.

[5] The *Financial Legislation Amendment and Repeal Act 2006* (now known as the *Financial Management (Transitional Provisions) Act* 2006) Sch. 2 deals with certain transitional issues some of which may be relevant for this Act.

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

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