

NORTHERN TERRITORY OF AUSTRALIA

EDUCATION ACT

As in force 8 March 2007

TABLE OF PROVISIONS

Section

PART I – PRELIMINARY

1. Short title
2. Commencement
3. Repeal
4. Definitions

PART II – ADMINISTRATION

5. Administration of act
6. Minister to provide education services
7. Arrangements for provision of education services
8. Secretary of Department of Education
9. Delegated power
- 9A. Delegation by Minister
10. Reports

PART IIA – NORTHERN TERRITORY BOARD OF STUDIES

- 10A. Definitions
- 10B. Establishment of Board
- 10C. Composition of Board and appointment of members
- 10D. Period of appointment
- 10E. Acting chairperson
- 10F. Resignation of members
- 10G. Dismissal of members
- 10H. Meeting of Board
- 10J. Functions of the Board
- 10K. Powers of the Board
- 10M. Issue of certificates by Board
- 10N. [Repealed]
- 10P. Ministerial control
- 10Q. Confidentiality
- 10R. Protection of members
- 10S. Staff and costs, &c., of Board
- 10T. Reports

## PART III – ADVISORY COUNCILS

### *Division 1 – Education Advisory Council*

11. Establishment and composition
- 11A. Deputy members
- 11B. Resignation and removal from office
- 11C. Meeting of Council
12. Chairperson and deputy chairperson
13. Functions
- 13A. Confidentiality
- 13B. Protection of members and deputy members
14. Reports
15. – 18. [Division 2] [Repealed]

### *Division 3 – General*

19. General power to establish advisory councils
20. Operation of advisory councils

## PART IV – COMPULSORY ATTENDANCE AT SCHOOLS

21. Compulsory education
22. Compulsory attendance
23. Child may be withdrawn from specified course
24. Exemption by Minister
25. Child not to attend school in certain circumstances
26. Power of Secretary
27. Suspension by head teacher
28. Expulsion by Minister
29. Parent to ensure non-attendance
- 29A. Re-enrolment after expulsion
30. Employment of children
31. Truancy
32. Evidentiary provision

## PART V – CHILDREN WITH SPECIAL LEARNING NEEDS

33. Definition
34. Advisory committees
35. Minister may provide for education of children
36. Parent may request special arrangements
37. Minister's power to make special arrangements
38. Referral to Supreme Court
39. Special arrangements to include provision for visits

## PART VI – COLLEGES

### *Division 1 – Definitions*

- 40. Definitions

### *Division 2 – Establishment, Functions and Powers of Colleges*

- 41. Establishment of colleges
- 42. Functions of colleges
- 43. Powers of colleges

### *Division 3 – College Councils*

- 44. College affairs to be conducted by council
- 45. Composition of council
- 46. Terms of office of appointed and elected members
- 47. Vacation of office and filling of casual vacancies
- 48. Council meetings and procedure
- 49. Committees
- 50. Disclosure of interest

### *Division 4 – College Principals, Staff, &c.*

- 51. Appointment of director
- 52. Other staff, &c.

### *Division 5 – Financial, &c., Provisions*

- 53. – 54. [Repealed]
- 55. College fees and charges
- 56. Payments to council members in respect of attendance at meetings
- 57. [Repealed]
- 58. Proper accounts to be kept
- 59. Gifts, &c., and trust funds
- 60. [Repealed]
- 60A. Budget and financial information
- 60B. Annual report

### *Division 6 – Miscellaneous*

- 60C. Trading, &c., corporations
- 60D. Delegation
- 60E. Terms of contract and execution of documents
- 60F. Protection of members
- 60G. Validity of proceedings
- 60H. By-laws

- 60J. Rules
- 60K. Penalties under by-laws and rules
- 60M. Removal of collegiate status

## PART VII – NON-GOVERNMENT EDUCATIONAL INSTITUTIONS

### *Division 1 – Definitions*

- 61. Definitions

### *Division 2 – Registration, &c., of Educational Institutions*

- 62. Application for registration of educational institution
- 63. Form of application
- 64. Determination of application
- 65. Cancellation, &c., of registration
- 66. Secretary not to cancel, &c., Registration in certain circumstances

### *Division 3 – Visits*

- 67. Visits by authorized persons

### *Division 4 – Appeals*

- 68. Appeal to Minister

### *Division 5 – Miscellaneous*

- 68A. Offence to manage, &c., institution which is not registered
- 68B. Secretary may exempt, &c., educational institutions from operating in accordance with prescribed requirements
- 68C. Records

## PART VIII – COURSES OF INSTRUCTION

- 69. General powers of Secretary

## PART IX – SCHOOL COUNCILS

- 70. Interpretation and scope
- 71. Establishment of school councils
- 71A. Restrictions on school councils
- 71B. Incorporation of school councils
- 71C. Functions of school councils
- 71D. Powers of school councils and terms of reference
- 71E. Power to enter into agreements
- 71F. Power to make grants

- 71G. Moneys of school council
- 71H. Accounts
- 71J. Guidelines
- 71K. Abolition of school council
- 71M. Protection of members
- 71N. By-laws
- 71P. Rules
- 71Q. Penalties under by-laws and rules

#### PART X – MISCELLANEOUS

- 72. Medical and dental inspections
- 73. Religious instruction in government schools
- 73A. [Repealed]
- 74. Offences
- 75. Regulations

#### SCHEDULE 1

#### SCHEDULE 2

#### Endnotes

# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 8 March 2007. Any amendments that commence after that date are not included.

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## EDUCATION ACT

**An Act to make provision for the availability of education to all people of the Northern Territory and in particular to provide for the access of all children to education programmes appropriate to their individual needs and abilities**

### PART I – PRELIMINARY

#### 1. Short title

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

#### 2. Commencement

The several Parts and sections of this Act shall commence on such dates as are respectively fixed by the Administrator by notice in the *Gazette*.

#### 3. Repeal

(1) The Acts of the State of South Australia listed in Schedule 1 cease to apply in the Territory as laws of the Territory.

(2) The Ordinances listed in Schedule 2 are repealed.

#### 4. Definitions

(1) In this Act, unless the contrary intention appears –

"Authority" means the Northern Territory Employment and Training Authority established under the *Northern Territory Employment and Training Act*;

"child" means a person who has not attained the age of 18 years;

"child of compulsory school age" means a child of or above the age of 6 years who has not yet attained the age of 15 years;

"college" means an institution or body declared to be a college under section 41(1);

## *Education Act*

"Department of Education" means the Agency, as defined in the *Public Sector Employment and Management Act*, primarily responsible to the Minister for the administration of this Act;

"Education Advisory Council" means the Education Advisory Council established under section 11;

"Government school" means a school declared to be a Government school under subsection (2);

"head teacher" means the person to whom the administration and control of a school is committed;

"Institute" means the Institute of Advanced Studies established under section 23 of the *Charles Darwin University Act*;

"non-Government school" means a school other than a Government school;

"parent" includes the person who has the actual custody of a child and the person with whom a child resides;

"registered" means registered under this Act;

"Secretary" means the Chief Executive Officer, as defined in the *Public Sector Employment and Management Act*, of the Department of Education;

"school" means a school or institution at which any person or body of persons provides, or offers to provide, courses of instruction substantially in pre-school, primary or secondary education;

"standard" means an objective criterion by which skills and abilities may be assessed;

"this Act" includes any regulations made under section 75;

"University" means the Charles Darwin University.

(2) Subject to subsection (3), the Minister may, by notice in the *Gazette*, declare a school to be a Government school.

(3) The Minister shall not declare a school that is wholly maintained otherwise than by Territory or Commonwealth funding to be a Government school.

**PART II – ADMINISTRATION**

**5. Administration of Act**

Subject to this Act, the Minister shall have the general administration of this Act and the administration and control of education services wholly provided and wholly maintained by him.

**6. Minister to provide education services**

(1) The Minister may take all measures which, in his opinion, are necessary or desirable –

- (a) to assist parents of children in the Territory in fulfilling their responsibility to educate their children according to the individual needs and abilities of those children;
- (b) to make education services, provided by him, available to all people in the Territory; and
- (c) to assist all people of the Territory with their own education.

(2) The Minister shall establish and maintain education services in the Territory.

(3) The Minister has power to do all things that are necessary or convenient to be done in, or in connection with, the performance of his functions under this Act.

(4) Without limiting the generality of subsection (3), the Minister may –

- (a) establish and maintain –
  - (i) such Government schools or institutions for the provision of primary and secondary education;
  - (ii) such pre-schools, correspondence schools and schools of the air; and
  - (iii) such colleges,as he considers necessary or desirable;
- (b) in such manner and to such extent as he thinks fit, provide or arrange for the transport of children to and from any school and may pay the whole or any portion of the cost of transporting any children to and from any school;

## *Education Act*

- (c) establish and maintain such residences for the accommodation of teachers or students as he considers necessary or desirable for the purposes of this Act;
- (d) undertake or cause to be undertaken research and investigation with respect to education generally, a specified field of education or the provision of education services in the Territory;
- (e) provide financial assistance to such persons, bodies or institutions as he considers necessary or desirable for, or in connection with, education services;
- (f) determine or arrange for the accreditation of courses of education provided in the Territory;
- (g) having sought the advice of the relevant Advisory Council, make provision for awards in relation to the passing of examinations or otherwise in relation to education services; and
- (h) make provision for the granting of scholarships, bursaries and prizes in relation to education services.

### **7. Arrangements for provision of education services**

(1) The Minister may make arrangements with the appropriate Minister of the Commonwealth or of a State or with any body or institution of the Commonwealth or of a State for the provision of teachers or education services.

- (2) An arrangement made under subsection (1) may –
  - (a) provide that it shall subsist for a specified period or until it is terminated at the request of a party to the arrangement;
  - (b) relate to the provision of teachers or education services in the Territory generally or at or in a specified place or part of the Territory;
  - (c) be limited to the provision of teachers or education services suitable for a specified field of education;
  - (d) include provisions relating to the remuneration and conditions of service of teachers to be provided under the arrangement; and
  - (e) provide that the Territory shall undertake to pay the remuneration of teachers provided under the arrangement and meet the cost of the provision of other benefits or amenities to be provided to or for the use of teachers under their terms and conditions of service.

**8. Secretary of Department of Education**

(1) [Omitted]

(2) The Secretary shall, in the exercise of his powers and the performance of his duties or functions under this Act (other than Part VII), be subject to the direction and control of the Minister.

(3) The Secretary may, upon the direction in writing of the Minister, perform any function or exercise any power which the Minister is authorized or required to perform or exercise by this Act, other than a power or function of the Minister in respect of a college that is an Agency within the meaning of the *Public Sector Employment and Management Act*.

**9. Delegated power**

(1) The Secretary may, in relation to teachers provided under arrangements entered into under section 7, exercise such powers under the law of the Commonwealth or a State as may be lawfully delegated to him under that law.

(2) The Secretary may, by instrument in writing, either generally or as provided by the instrument of delegation, delegate to –

(a) an employee as defined in the *Public Sector Employment and Management Act*;

(b) [Omitted]

all or any of his powers or functions under this Act, other than this power of delegation.

(3) A power or function delegated under subsection (2) or (2A) may be exercised by the delegate in accordance with the instrument of delegation.

(4) A delegation under subsection (2) or (2A) is revocable by the Secretary at will and does not prevent the exercise of a power or the performance of a function by the Secretary.

**9A. Delegation by Minister**

(1) The Minister may, by instrument in writing, delegate to a person any of his powers and functions under this Act, other than a power or function of the Minister in respect of a college that is an Agency within the meaning of the *Public Sector Employment and Management Act* and this power of delegation.

(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purpose of this Act, be deemed to have been exercised or performed by the Minister.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

## **10. Reports**

(1) The Secretary shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the administration of this Act and on the operation of education services in the Territory during the year ending on that date.

(2) The Minister shall cause a copy of each report furnished to him under subsection (1) to be laid before the Legislative Assembly within 3 sitting days after it has been so furnished.

## **PART IIA – NORTHERN TERRITORY BOARD OF STUDIES**

### **10A. Definitions**

In this Part, unless the contrary intention appears –

"Board" means the Northern Territory Board of Studies established by section 10B;

"chairperson" means the chairperson of the Board appointed under section 10C(1);

"member" means a member of the Board appointed under section 10C(1) and includes the chairperson.

### **10B. Establishment of Board**

There is established by this Act a Board by the name of the Northern Territory Board of Studies.

### **10C. Composition of Board and appointment of members**

(1) The Board consists of –

(a) a chairperson; and

(b) 15 other members,

appointed by the Administrator.

(2) The Minister must nominate a person (who is not an employee of the department administering this Act) for appointment as the chairperson.

(3) The Regulations may prescribe the interest groups or bodies from which the remaining 15 members are drawn and the manner in which prospective members are to be nominated.

(4) The exercise of a power or the performance of a function by the Board is not affected by reason only of there being a vacancy in the membership of the Board.

(5) [Omitted]

(6) Where a body prescribed in the Regulations for the purposes of this section changes its name (but not otherwise), the body continues to be the prescribed body for the purposes of this section.

#### **10D. Period of appointment**

(1) Subject to this Act, a member holds office until the expiration of such period, not exceeding 3 years, as is specified in his instrument of appointment, but is eligible for re-appointment.

(2) Where a period of appointment is not specified in an instrument of appointment of a member referred to in subsection (1), the member holds office, subject to this Part, for 3 years.

(3) The appointments of members are to be arranged so that, as far as practicable, the terms of office of 8 members expire together, with the terms of office of the other 8 members expiring 18 months later.

#### **10E. Acting chairperson**

If the chairperson is absent from a meeting, the members present must elect one of their number to be acting chairperson and that person may exercise the powers and perform the duties of the chairperson for that meeting.

#### **10F. Resignation of members**

A member referred to in may resign his office by writing signed by him or her and delivered to the Administrator.

#### **10G. Dismissal of members**

(1) The Administrator may terminate the appointment of a member for inability, inefficiency, misbehaviour or physical or mental incapacity to carry out his or her duties as a member.

- (2) Where a member –
  - (a) is absent, except on leave granted by the Board, from 2 consecutive meetings of the Board; or
  - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

the Administrator shall terminate the appointment of the member.

(3) If a member was appointed on the nomination of a body, the Administrator must terminate the appointment of the member if the nominating body so requests.

#### **10H. Meeting of Board**

(1) The chairperson shall call such meetings of the Board as are necessary for the exercise of its powers and the performance of its functions, but so that the interval between one meeting and the next does not exceed 4 months.

(2) The Minister may at any time direct the chairperson to convene a meeting of the Board and the chairperson shall convene a meeting accordingly.

- (3) At a meeting of the Board –
  - (a) 9 members constitute a quorum;
  - (b) questions arising shall be determined by a majority of the votes of the members present and voting, excluding the member presiding at the meeting, but, in the event of an equality of votes, the member presiding at that meeting shall have a casting vote; and
  - (c) subject to this Act, the Board shall determine the procedure to be followed at or in connection with the meeting.
- (4) The Board shall keep records of its meetings.

**10J. Functions of Board**

The following are functions of the Board:

- (a) providing advice to the Minister and the Secretary on curriculum policy in relation to –
  - (i) establishing and maintaining curriculum frameworks that encompass the needs of all students in the Territory school education system;
  - (ii) establishing and maintaining procedures for student assessment, reporting and certification;
  - (iii) monitoring, evaluating and reporting on student performances;
  - (iv) improving student outcomes; and
  - (v) government policy that impacts on the Board's functions;
- (b) co-operating and consulting with prescribed authorities or bodies engaged in education and related matters.

**10K. Powers of the Board**

Subject to this Act, the Board has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions.

**10M. Issue of certificates by Board**

(1) The Board shall determine the certificates to be issued to a person in respect of his educational attainments, and shall issue a certificate to a person whose educational attainments, as assessed or determined in accordance with this section, qualify him for such issue.

(2) – (4) [Omitted]

(5) The Board shall prepare and maintain records of assessments under, or recognized by, the Board in relation to a student or former student and provide, on request by the student or former student, a copy of those records to the student or former student, or to such other person as the student or former student specifies in that request.

**10N. [Repealed]**

**10P. Ministerial control**

The Board is, in the exercise of its powers and the performance of its functions, subject to the directions of the Minister.

**10Q. Confidentiality**

A member shall not disclose information obtained in the course of his duties as a member unless the disclosure is –

- (a) made in the course of his duties as a member; and
- (b) authorized by the Board.

**10R. Protection of members**

A member is not personally liable in respect of any matter or thing done by him or her if the matter or thing was done in good faith for the purpose of exercising the powers or performing the functions of the Board.

**10S. Staff and costs, &c., of Board**

(1) The Board may, with the approval of the Secretary, for the purposes of the effective exercise of its powers and performance of its functions, make use of the administrative and professional staff within the department administering this Act.

(2) The Minister may approve the payment of costs and expenses reasonably incurred by the Board in the exercise of its powers and the performance of its functions.

**10T. Reports**

The Board shall, as soon as practicable after 31 December in each year, prepare and furnish to the Minister a report on its activities during the year ending on that date.

**PART III – ADVISORY COUNCILS**

*Division 1 – Education Advisory Council*

**11. Establishment and composition**

(1) There shall be a Council, to be known as the Education Advisory Council.

(2) The Administrator may, by instrument in writing, appoint a person to be a member of the Education Advisory Council for a period specified in the instrument not exceeding 2 years.

*Education Act*

(3) The Education Advisory Council shall consist of not more than 16 members including –

- (a) not more than 10 members who shall be persons drawn from one each of the following interest groups or bodies;
  - (i) the Australian Education Union;
  - (ii) the Northern Territory Council of Government School Organizations;
  - (iii) the indigenous community;
  - (iv) the migrant community;
  - (v) trade unions (other than the Australian Education Union);
  - (vi) employer associations;
  - (vii) persons with expertise in higher education;
  - (viii) non-Government schools;
  - (ix) students of primary or secondary schools; and
  - (x) residents of communities remote from the Territory's main centres of population;
- (ab) one member nominated by the Commonwealth Minister administering the Commonwealth department primarily responsible for school education;
- (ac) one member (who shall be an employee as defined in the *Public Sector Employment and Management Act* who is employed as a teacher, including a head teacher, in a college or school) nominated by the Minister to represent teachers;
- (b) one member who is the Secretary or an employee as defined in the *Public Sector Employment and Management Act* employed in the department administering this Act; and
- (c) not more than 3 additional members of whom not less than 2 reside outside the City of Darwin.

(4) The exercise of the powers and the performance of the functions of the Education Advisory Council shall not be affected by reason only of there being a vacancy in the membership of the Council.

(5) A member of the Education Advisory Council is eligible for reappointment in accordance with subsection (2).

**11A. Deputy members**

(1) Subject to subsection (2), the Administrator may appoint a person (in this Part referred to as a "deputy member") to act in the place of a member of the Education Advisory Council during the absence or inability to act of the member.

(2) The Administrator shall not appoint a person to be a deputy member under subsection (1) unless –

- (a) where the member in whose place the person is to act was appointed under section 11(3)(a), the person is drawn from the same interest group or body, referred to in that paragraph, as the member; or
- (b) where the member in whose place the person is to act was appointed under section 11(3)(ab), (ac), (b) or (c), the person is eligible for appointment as a member under the relevant paragraph.

**11B. Resignation and removal from office**

(1) A member or a deputy member of the Education Advisory Council may resign office by writing signed by him and delivered to the Minister.

(2) The Minister may terminate the appointment of a member or deputy member of the Education Advisory Council for inability, inefficiency, misbehaviour or physical or mental incapacity to carry out his or her duties as a member.

- (3) If –
  - (a) a member of the Education Advisory Council is absent, except by leave of the chairperson of the Council, from 3 consecutive meetings of the Council;
  - (b) a deputy member of the Education Advisory Council is absent, except by leave of the chairperson of the Council, from 3 consecutive meetings of the Council which the member in whose stead he was appointed to act requested him to attend in the member's place; or
  - (c) a member or deputy member of the Education Advisory Council becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his

creditors or makes an assignment of his remuneration for their benefit,

the Minister shall terminate the appointment of the member or deputy member, as the case may be.

### **11C. Meeting of Council**

(1) The chairperson of the Education Advisory Council shall call such meetings of the Council as are necessary for the exercise of its powers and the performance of its functions, but so that the interval between one meeting and the next does not exceed 5 months.

(2) The Minister may at any time direct the chairperson of the Education Advisory Council to convene a meeting of the Council and the chairperson shall convene a meeting accordingly.

(3) At a meeting of the Council –

(a) 9 members of the Education Advisory Council shall constitute a quorum;

(b) questions arising shall be determined by a majority of the votes of the members of the Council (and, where a deputy member is acting in place of a member, the deputy member) present and voting, and, in the event of an equality of votes, the member presiding at that meeting shall have a casting vote; and

(c) subject to this Act, the Council shall determine the procedure to be followed at or in connection with the meeting.

(4) The Council shall keep records of its meetings.

### **12. Chairperson and deputy chairperson**

(1) The Administrator shall appoint a member of the Education Advisory Council to be the chairperson of the Council.

(2) The members of the Education Advisory Council may elect one of their number to be the deputy chairperson of the Council.

(3) Where, in respect of a meeting of the Education Advisory Council –

(a) the chairperson is present, he shall preside; or

- (b) the chairperson is absent and the deputy chairperson is present, he shall preside, notwithstanding that a deputy member may be acting in the place of the chairperson.

### **13. Functions**

The Education Advisory Council –

- (a) shall consider such matters relating to the provision of education services in the Territory as the Council determines or as the Minister refers to it for consideration or advice;
- (b) may make to the Minister from time to time such recommendations as it may think desirable with respect to any matter considered by the Council; and
- (c) shall report to the Minister from time to time or as required by the Minister on any matter considered by the Council; and
- (d) shall exercise such other functions as are provided for in this Act.

### **13A. Confidentiality**

A member or deputy member of the Education Advisory Council shall not disclose information obtained in the course of the member's duties as a member unless the disclosure is –

- (a) made in the course of the member or deputy member's duties as a member; and
- (b) authorised by the Education Advisory Council.

### **13B. Protection of members and deputy members**

A member or deputy member of the Education Advisory Council is not personally liable in respect of any matter or thing done by him or her if the matter or thing was done in good faith for the purpose of exercising the powers or performing the functions of the Council.

### **14. Reports**

(1) The Education Advisory Council shall, as soon as practicable after 31 December in each year, prepare and furnish to the Minister a report on its activities during the year ending on that date.

(2) The Minister shall cause a copy of each report furnished to him under subsection (1) to be laid before the Legislative Assembly within 3 sitting days of the Legislative Assembly after it has been so furnished.

**15. – 18. [Division 2] [Repealed]**

***Division 3 – General***

**19. General power to establish advisory councils**

(1) Subject to this Act, the Minister may, in addition to the Education Advisory Council, establish such advisory councils to investigate, consider, undertake research, report and make recommendations, with respect to such matters relating to the provision of education services in the Territory, as he thinks fit.

(2) An advisory council may be established under subsection (1) with respect to any matter affecting the administration of this Act, education in general or a specified field of education.

(3) An advisory council constituted under this section shall consist of such members as the Minister thinks fit to appoint to the council.

(4) A school council established under section 71(1) is not an advisory council within the meaning of this Part.

**20. Operation of advisory councils**

(1) [Omitted]

(2) The Education Advisory Council or an advisory council established under section 19 shall be governed by and shall conduct its affairs in accordance with terms of reference determined by the Minister.

(3) The Minister may, with respect to the Education Advisory Council or an advisory council established under section 19 –

- (a) provide such secretarial and administrative assistance, if any, which in his opinion is necessary or desirable; and
- (b) approve the payment of costs and expenses reasonably incurred in carrying out the functions of any of those councils.

**PART IV – COMPULSORY ATTENDANCE AT SCHOOLS**

**21. Compulsory education**

(1) Subject to subsection (3), a parent who has the actual custody of a child of compulsory school age –

- (a) shall enrol the child in –
  - (i) a Government school; or

*Education Act*

- (ii) a non-Government school which is a registered educational institution within the meaning of Part VII; or
- (b) may provide education for the child which is efficient and suitable.

Penalty: \$200.

- (2) For the purposes of subsection (1)(b) –
  - (a) the parent shall obtain the consent in writing of the Secretary before providing such education for the child; and
  - (b) whether such education is efficient and suitable or not shall be a matter for the decision of the Secretary who may, if he thinks fit, obtain a report on the education by a person authorized by him in writing to do so.

(3) Subsection (1) does not apply to or in relation to a child for whom special arrangements under Part V have been made for the education of the child and the child is complying with those arrangements.

**22. Compulsory attendance**

(1) Where a child is enrolled at a school, the child shall attend that school on each day, and for such parts of each day, as instruction is provided at the school for the child.

- (2) Subsection (1) does not apply to a child –
  - (a) enrolled at a school of the air or a correspondence school;
  - (b) exempted from attendance in accordance with the provisions of this Part;
  - (c) in respect of whose absence from the school a parent provides either orally or in writing a reason acceptable to the head teacher of the school for the absence of the child; or
  - (d) whose absence is on a day, or part of a day, of significance to the ethnic group of the child and a parent of the child provides either orally or in writing to the head teacher of the school the reason for the absence of the child.

(3) Subject to this section, where a child fails to attend school in accordance with subsection (1), each parent of the child is guilty of an offence and liable to a penalty not exceeding \$200.

(4) Where both parents of a child are found guilty of an offence under this section, the penalty imposed shall not exceed \$200 in the aggregate.

(5) It is a defence to a charge under this section that the failure of the child to attend school did not result from any failure of the parent to exercise proper care and control of the child.

### **23. Child may be withdrawn from specified course**

(1) A parent of a child enrolled at a Government school may request the head teacher of the school to withdraw the child from the whole or a specified part of a specified course of instruction provided for the child at the school.

(2) The head teacher of a Government school to whom a request under subsection (1) has been made may comply with the request and shall comply with it if –

- (a) the course of instruction specified in the request is a course of religious instruction; or
- (b) the parent claims to have a conscientious objection to the child's attending the course or part of the course, as the case may be.

### **24. Exemption by Minister**

(1) The Minister may exempt a child from attendance at school for a specified period.

(2) The Minister may, at any time, revoke an exemption granted under this section.

### **25. Child not to attend school in certain circumstances**

(1) The head teacher of a Government school at which a child is enrolled may give notice in writing to a parent of the child that the child is not to attend school for, subject to subsection (2), a period specified in the notice, on the ground that the child is suffering from an infectious or contagious disease.

(2) Where a head teacher of a Government school has given notice under subsection (1) in relation to a child, he shall readmit the child to the school upon the production of a certificate signed by a medical practitioner certifying that the child is fit to return to school.

(3) In this section –

"medical practitioner" includes a medical practitioner who has a right of practice under a law of a State or another Territory.

**26. Power of Secretary**

The Secretary may direct that a child be not enrolled in a specified Government school.

**27. Suspension by head teacher**

(1) Where the head teacher of a Government school at which a person is enrolled is of the opinion that the person should be suspended from attendance at the school because the presence of the person at school would, in the head teacher's opinion, be injurious to the health or moral welfare of other persons enrolled at the school, by reason of the person's insolence, repeated disobedience, immoral conduct or serious breach of discipline, the head teacher may suspend the person from attendance at the school.

(2) [Omitted]

(3) Where the head teacher of a Government school has suspended a child under subsection (1), he shall immediately furnish notice, in a form approved by the Secretary, of the suspension and a full report of the circumstances to a parent who has the actual custody of the child and to the Minister.

(3A) Where the head teacher of a Government school has suspended a person, other than a child, under subsection (1), the head teacher shall immediately furnish notice, in a form approved by the Secretary, of the suspension and a full report of the circumstances to the person and to the Minister.

(4) A suspension under this section shall remain in force for the period, not exceeding one month, specified in the notice referred to in subsection (3) or (3A), as the case may be, or until the Minister decides whether, in the case of a child, the child shall be expelled under section 28, whichever is the earlier.

**28. Expulsion by Minister**

(1) Where the Minister considers it necessary in the interests of other children attending a Government school, the Minister may expel a child from the school at which the child is enrolled.

(2) The Minister may, at any time, review an expulsion made under subsection (1) and, where he is of the opinion that the child should be no longer expelled from the school referred to in that subsection, he may terminate the expulsion.

(3) As soon as practicable after an expulsion or termination of expulsion under this section, the Minister shall inform or cause to be informed in

writing a parent who has the actual custody of the child of that expulsion or termination of expulsion.

**29. Parent to ensure non-attendance**

(1) A parent of a child in respect of whom a notice has been given under section 25 or 27 or who has been expelled under section 28 shall ensure that the child does not attend school during the period specified in the notice given under section 25, subject to the provisions of subsection (2) of that section, or section 27 or while the child is expelled from school under section 28, as the case may be.

Penalty: \$200.

(2) It is a defence to a charge under this section that the attendance of the child at school did not result from any failure of the parent to exercise proper care and control of the child.

(3) In this section, "attend school" means to be present at the Government school at which the child is enrolled at any time during a day, or any part of a day, when instruction is provided at the school for children.

**29A. Re-enrolment after expulsion**

Where a child has been expelled from a Government school, a parent of the child shall not, without the permission of the Minister, enrol the child at a Government school, except at the educational institution known as the Northern Territory Secondary Correspondence School or at a school of the air.

**30. Employment of children**

(1) No person, whether or not he is a parent of the child, shall employ or cause or permit to be employed a child of compulsory school age –

- (a) during the hours at which he is required to attend school; or
- (b) during any part of a day or night in any labour or occupation that is such as to be likely to render the child –
  - (i) unfit or unable to attend school during the hours at which he is required to attend school; or
  - (ii) unfit or unable to receive and understand instruction provided for him.

Penalty: \$500 or imprisonment for 3 months.

(2) The Minister, or a person authorized in writing by the Minister to do so, may grant an exemption in respect of a child from all or any of the provisions of subsection (1).

### **31. Truancy**

(1) In this section and section 32(2), "authorized person" means –

- (a) any member of the Police Force when in uniform; and
- (b) any other person authorized in writing by the Secretary for the purposes of this Part.

(2) The Secretary shall issue to each authorized person other than a member of the Police Force an identity card in accordance with a form approved by the Minister.

(3) Where an authorized person observes a child who appears to him to be a child of compulsory school age in a public place at a time when the authorized person is satisfied that there is reasonable ground for believing that the child is required to attend a school, the authorized person may –

- (a) after producing, in the case of a person authorized under subsection (1)(b), the identity card issued to him under subsection (2), ask the child for his name and address, his age, the name of the school at which he is enrolled, and an explanation of his absence from school; and
- (b) if he remains of the opinion that the child is of compulsory school age and is not satisfied with the explanation offered by the child, escort the child to the school and into the custody of the head teacher.

(4) An authorized person may, at any time between 8.00 a.m. and 7.00 p.m. during any day, call at an address which has been obtained under subsection (3) or otherwise, and, after producing in the case of a person authorized under subsection (1)(b) the identity card referred to in subsection (2), require any person present at that address to furnish him with –

- (a) the full names of all children of compulsory school age who ordinarily reside at that address; and
- (b) the names of the schools, if any, at which those children are enrolled.

(5) A person shall, so far as he is able, comply with a requirement of an authorized person made under subsection (4).

Penalty: \$200.

### **32. Evidentiary provision**

(1) An apparently genuine document purporting to be under the hand of the head teacher of a school stating that a child named in the document did or did not attend that school on the occasion or occasions specified in the document shall, in any legal proceedings, be evidence of the matters so stated.

(2) In any proceedings under this Act, an apparently genuine document purporting to be under the hand of an authorized person and stating that –

- (a) a specified person is a parent of a child named in the document;
- (b) that the child named in the document is of, above, or below, a specified age;
- (c) that at a specified time the child named in the document was or was not enrolled at a specified school;
- (d) that a person named in the document is the head teacher of a specified school; or
- (e) that at a specified time instruction was provided for the child named in the document at the school specified in the document,

shall be evidence of the matters so stated.

## **PART V – CHILDREN WITH SPECIAL LEARNING NEEDS**

### **33. Definition**

In this Part, "handicapped child" means a child whose educational progress will, by reason of the child's mental or physical handicap, suffer unless the child has access to special educational arrangements.

### **34. Advisory committees**

(1) For the purposes of this Part, the Minister may establish an advisory committee to provide advice and make recommendations to him with respect to the performance of his functions and the exercise of his powers under this Part.

- (2) An advisory committee constituted under this section shall –
  - (a) consist of such members as the Minister thinks fit to appoint to the committee; and
  - (b) subject to any directions of the Minister, determine its own procedure.
- (3) The members of an advisory committee constituted under this section shall hold office at the pleasure of the Minister.

**35. Minister may provide for education of children**

(1) The Minister may make such provision for or in relation to the education of a class or classes of children to whom this Part relates or children to whom this Part relates generally as he considers necessary or desirable.

(2) Without limiting the generality of subsection (1), the Minister may make arrangements with the Government of a State or with a body or institution in a State –

- (a) for or in relation to the education in that State of children to whom this Part relates; and
- (b) for the payment of expenses for or in relation to that education.
- (3) In this section, "children to whom this Part relates" means –
  - (a) handicapped children; and
  - (b) children whose educational progress will, by reason of some special factor, other than a physical or mental handicap, in relation to the children, suffer unless the children have access to special educational arrangements.

**36. Parent may request special arrangements**

- (1) Where it appears to –
  - (a) a parent who has the actual custody of a child of compulsory school age; or
  - (b) the head teacher of the school at which a child of compulsory school age is enrolled,

that the child is a handicapped child or that the educational progress of the child will, by reason of some special factor, other than a physical or mental handicap, suffer unless the child has access to special educational arrangements –

- (c) that parent; or
- (d) that head teacher,

may request the Minister to make special arrangements for or in relation to the education of the child.

(2) Where it appears to a parent who has the actual custody of a child who is not of compulsory school age that the child is a handicapped child, he may request the Minister to make special arrangements for or in relation to the education of the child.

### **37. Minister's power to make special arrangements**

The Minister may, upon receiving a request under section 36(1) or (2), by order in writing, make such special arrangements for or in relation to the education of the child as he considers necessary or desirable and as are –

- (a) in the case of a request under section 36(1) –
  - (i) agreed to by the parent who has the actual custody of the child; or
  - (ii) authorized under section 38; or
- (b) in the case of a request under section 36(2) – agreed to by the parent who has the actual custody of the child.

### **38. Referral to Supreme Court**

(1) Where the Minister and the parent who has actual custody of a handicapped child of compulsory school age cannot reach agreement in relation to proposed special arrangements for or in relation to the education of the child, the Minister may refer the proposed arrangements to the Supreme Court.

(2) Subject to this Act, the Supreme Court may, in relation to any proposed arrangements referred to it under subsection (1) –

- (a) authorize the making of the arrangements;
- (b) vary the arrangements in such manner as it thinks fit, and authorize the making of the arrangements so varied;

(c) substitute such arrangements as it considers necessary or desirable for the arrangements, and authorize the making of the arrangements so substituted; or

(d) refuse to authorize the arrangements.

(3) In exercising the jurisdiction conferred by this section, the Supreme Court shall have regard to the responsibility of parents to educate their children and give due weight to the wishes of a parent who has the actual custody of a child who is the subject of a referral to the Court under this section.

(4) Rules made under the *Supreme Court Act* may include Rules for or with respect to referrals to the Supreme Court under this section.

(5) Unless the Supreme Court otherwise orders, the costs of and incidental to a referral to that Court under this section shall be paid by the Territory.

### **39. Special arrangements to include provision for visits**

The Minister shall not make special arrangements under section 37 for or in relation to the education of a child which require the child to reside at a place other than the usual place of residence of the parent who has actual custody of the child unless those arrangements include provision for visits of reasonable frequency and duration by that parent to the child or by the child to that parent.

## **PART VI – COLLEGES**

### *Division 1 – Definitions*

#### **40. Definitions**

In this Part, unless the contrary intention appears –

"by-laws" means by-laws made by a council under section 60H;

"chairman" means the chairman of a council appointed under section 45(1)(a) or (2)(a);

"council" means the council of a college;

"Director" means the Director of a college appointed under section 51;

"member" means a member of a council;

"rules" means rules made by a council under section 60J;

"vice-chairman" means the vice-chairman of a council elected under section 45(3).

***Division 2 – Establishment, Functions and Powers of Colleges***

**41. Establishment of colleges**

- (1) The Minister –
  - (a) may, by notice in the *Gazette*, declare an institution established for the provision of educational services in an academic, vocational or practical discipline or of a recreational nature to persons who have attained the age of 15 years, to be a college; and
  - (b) shall, in a notice under paragraph (a), specify the name by which the college is to be known.
- (2) The Minister shall not declare an institution to be a college if it is wholly maintained otherwise than by Territory or Commonwealth funding.
- (3) A college –
  - (a) is a body corporate with perpetual succession;
  - (b) shall have a common seal; and
  - (c) is capable, in its corporate name, of acquiring, holding and disposing of real (including leasehold) and personal property, and of suing and being sued.
- (4) All courts, judges and persons acting judicially shall take judicial notice of the common seal of a college affixed to a document, and shall presume that it was duly affixed.

**42. Functions of colleges**

The functions of a college are –

- (a) to conduct programmes of education, training and research of such kinds, at such levels, and in such fields of science, technology and trades, the arts, administration, commerce, and other fields of knowledge or the application of knowledge, as the council of the college may with the approval of the Minister determine or as the Minister may require;
- (b) to use and develop the facilities and resources of the college to advance knowledge and skills in the fields in which the college is concerned, and to provide consultancy services in such fields; and
- (c) to keep under review the particular education, training and employment needs of the communities served by the college, and

the courses of instruction, study and training required to be provided to satisfy those needs, and to submit any proposals arising from a review to the Authority for consideration by the Authority and the giving to the Minister of such advice with respect thereto as the Authority thinks fit.

**43. Powers of colleges**

(1) Subject to this Part, a college has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.

(2) Without limiting the generality of subsection (1), a college may, for the purpose of carrying out its functions or exercising its powers (including powers conferred on it elsewhere in this Part or by any other Act) –

- (a) make arrangements with other educational institutions for the establishment in the college of courses of lectures or studies for degrees, diplomas, certificates or other awards;
- (b) co-operate with other institutions that provide facilities for teaching or research;
- (c) make such awards, either in relation to the passing of examinations or otherwise in connection with the education and training provided by the college, as are provided for by by-laws of the college;
- (d) enter into contracts;
- (e) purchase, take on lease or otherwise acquire, and sell, grant leases of or otherwise dispose of, real or personal property;
- (f) erect buildings;
- (g) occupy, use and control any land or building owned or held under lease and made available for the purposes of the college;
- (h) create, develop, apply for, obtain and hold intellectual and industrial property and rights, and enter into agreements or arrangements for the commercial exploitation of any such property or rights on such terms as to royalties, lump sum payments or otherwise as the council of the college thinks fit;
- (j) accept gifts, grants, bequests, devises and assignments made to the college, whether on trust or otherwise, and act as trustee of moneys or other property vested in the college on trust;

*Education Act*

- (k) establish and maintain libraries, laboratories and museum facilities in connection with the college; and
- (m) establish and maintain residential accommodation for staff and students of the college and other persons attending it.

***Division 3 – College Councils***

**44. College affairs to be conducted by council**

(1) Subject to this Act, the affairs of a college shall be conducted by its council.

(2) All things done by a council, or in the name or on behalf of a college with the express or implied authority of its council, shall be deemed to have been done by the college.

- (3) A council –
  - (a) shall, in the discharge of its responsibility for the efficient and effective administration of the college and the efficient and effective management of its finances and facilities, make the fullest practicable use of services and resources available to the council through the Department of Education and, where a college is an Agency within the meaning of the *Public Sector Employment and Management Act*, the Public Sector as defined in that Act; and
  - (b) is in the exercise of its powers and the performance of its functions subject to the directions of the Minister.

**45. Composition of council**

- (1) Subject to this Part, a council shall consist of –
  - (a) a chairman, who shall be appointed by the Minister;
  - (b) the Secretary or his nominee;
  - (c) [Omitted]
  - (d) the Director of the college;
  - (e) a member of the teaching staff of the college elected by that staff;
  - (f) a student of the college elected by the students of the college;
  - (g) a person with expertise in the field of higher education appointed by the Minister; and

- (h) up to 10 other persons appointed by the Minister, being persons who, in the opinion of the Minister, will contribute to the exercise and performance of the powers and functions of the council.

(2) Notwithstanding subsection (1), where a college is an Agency within the meaning of the *Public Sector Employment and Management Act*, the council shall consist of –

- (a) a chairman appointed by the Minister;
- (b) the Director of the college;
- (c) a member of the teaching staff of the college elected by the staff;
- (d) a student of the college elected by the students of the college;
- (e) a person nominated by the Secretary;
- (f) a person with expertise in the field of higher education appointed by the Minister; and
- (g) such members, if any, appointed under the Regulations.

(3) A council shall from time to time elect from amongst its members a vice-chairman to act in the place of the chairman from time to time during the absence or inability to act of the chairman.

(4) The students of a college may elect a person to act in the office of the person elected under subsection (1)(f) or (2)(d), and a person so elected may act in that office, during the absence or inability to act of the person elected under that subsection.

#### **46. Terms of office of appointed and elected members**

(1) Subject to this Part, a member of a council appointed under section 45(1)(a), (g) or (h) or (2)(a), (e), (f), (g) holds office for such period not exceeding 3 years as is specified in the instrument by which he is appointed.

(2) Subject to this Part, a member elected under section 45(1)(e) or (f) or 45(2)(c) or (d) holds office for a period of one year or such other period not exceeding 3 years as may be prescribed by by-laws of the college.

(3) An appointed or elected member is, on the expiry of his term of office, eligible for re-appointment or re-election if he still has at that time any qualification necessary under section 45 for appointment or election as the case may be.

**47. Vacation of office and filling of casual vacancies**

(1) This section does not apply to the members of a council specified in section 45(1)(b), (c) and (d) or section 45(2)(b) as members ex officio.

(2) The Minister shall remove a member of a council from office if the member –

- (a) is convicted in the Territory of an offence punishable by imprisonment, or is convicted elsewhere than in the Territory of an offence which, if committed in the Territory, would be an offence so punishable;
- (b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, or compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (c) is the subject of a report of the Chief Health Officer, based on advice from 2 medical practitioners, that as a result of the member's mental illness, as defined in the *Mental Health and Related Services Act*, he or she has become incapable of performing his or her duties as a member and is unlikely to be able to perform them for the remainder of his or her term of appointment;
- (d) knowingly contravenes or fails to comply with section 50; or
- (e) ceases to hold the qualification, if any, necessary under section 45 for his or her appointment or election as the case may be.

(3) The Minister may remove a member from office if the member –

- (a) has, in the opinion of the Minister, been guilty of grave misconduct or wilful neglect in the discharge of his office;
- (b) is, in the opinion of the Minister, physically or (notwithstanding that the case does not fall within subsection (2)(c)) mentally incapable of performing the duties of his office; or
- (c) has, except with the leave of the council, absented himself from 3 consecutive meetings of the council of which notice has been given to him personally or by post.

(4) A member may resign his office by writing signed by him and delivered to the Minister.

(5) Where a vacancy occurs in the office of a member elected under section 45(1)(e) or (f) or section 45(2)(c) or (d) otherwise than by the expiry of

his term of office, the Minister may appoint a person to fill the vacancy for the unexpired portion of that term.

**48. Council meetings and procedure**

- (1) The chairman of a council –
  - (a) shall call such meetings of the council as are necessary for the exercise of its powers and the performance of its functions, but so that the interval between one meeting and the next does not exceed 4 months; and
  - (b) where requested to do so by a notice signed by not less than one third of the members for the time being holding office, shall call a special meeting of the council within 7 days after that on which he receives the notice.
- (2) Where there is no chairman, or the chairman is for any reason not available for the purposes of subsection (1), references in that subsection to the chairman shall include references to the vice-chairman.
- (3) The Minister may if he considers it necessary to do so call a meeting of a council.
- (4) A meeting of a council shall be presided over by the chairman or, in his absence, by the vice-chairman or, in the absence of both the chairman and the vice-chairman, by a member elected for the purpose by the members present at the meeting.
- (5) At a meeting of a council, 50% of the members for the time being holding office shall constitute a quorum.
- (6) Questions arising at a meeting of a council shall be determined by a majority of the votes of the members present and voting, and –
  - (a) in the event of there being an equality of votes on a question, the matter shall be deferred for consideration at the next meeting of the council held on a subsequent day; and
  - (b) if at that next meeting the same question is put and there is again an equality of votes, the person presiding at the meeting shall have a casting vote.
- (7) Subject to this Part and any by-laws of the college, a council shall itself determine the procedure to be followed at or in connection with its meetings.

**49. Committees**

(1) A council may establish such committees as it thinks fit, but shall appoint a member of the council to each committee.

(2) A person may be appointed as a member of a committee established under subsection (1) whether or not he is a member of the council by which it is established.

**50. Disclosure of interest**

(1) A member of a council who has a direct or indirect pecuniary interest in –

- (a) a matter being considered or about to be considered at a meeting of the council; or
- (b) a thing being done or about to be done by the council,

otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 members and of which he is not a director, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of the interest at a meeting of the council.

(2) A disclosure by a member at a meeting of a council that he –

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body, or to that person, which may arise after the date of the disclosure.

(3) A council shall cause particulars of all disclosures made under this section to be recorded in a book kept for the purpose and that book shall be open at all reasonable times to the inspection of any person on payment of such fee, if any, as is determined from time to time by the council.

(4) After a member of a council has, or shall be deemed to have, disclosed the nature of an interest in a matter or thing pursuant to this section, he shall not, unless the council (in the absence of the member) otherwise determines –

- (a) be present during any deliberation of the council, or take part in a decision of the council, in relation to that matter; or
- (b) exercise a function under this Part in relation to that thing.

(5) A reference in this section to a council includes a reference to a committee of a council.

***Division 4 – College Principals, Staff, &c.***

**51. Appointment of Director**

(1) The Minister may appoint a person nominated by a council to be the Director of the college.

(2) The Administrator shall not appoint a Chief Executive Officer under section 19 of the *Public Sector Employment and Management Act* in respect of a college that is an Agency within the meaning of that Act, unless the person has been nominated by the council of the college to be the Director of the college.

- (3) The functions of a Director are –
- (a) to represent the council by which the Director was nominated;
  - (b) to execute the policy decisions of the council by which the Director was nominated; and
  - (c) such other functions as are conferred on the Director by this Act or any other Act.

(4) Subject to this Act, the Director has power to do all things that are necessary or convenient to be done for or in connection with, or incidental to, the performance of the Director's functions.

**52. Other staff, &c.**

- (1) Subject to subsections (2) and (3), a council may –
- (a) employ such staff (whether on a permanent, part-time or casual basis); and

- (b) otherwise contract or arrange for the services of such persons (including consultants and advisers),

as the council considers necessary to enable it to carry out the functions of the college or to secure the efficient and effective administration and maintenance of the college.

(2) The terms and conditions of any contract of employment or other contract or arrangement under subsection (1) shall be such as are determined by the council with the approval of the Commissioner within the meaning of the *Public Sector Employment and Management Act*.

(3) Subsections (1) and (2) do not apply to a college that is an Agency within the meaning of the *Public Sector Employment and Management Act*.

### *Division 5 – Financial, &c., Provisions*

#### **53. – 54. [Repealed]**

#### **55. College fees and charges**

(1) Subject to this section, fees or charges are payable to a college at such rates, for such courses of study or instruction of the college, for admission to such examinations conducted by the college and in relation to such other facilities or privileges of the college as are determined by its council.

(2) A student to whom a college has granted a scholarship or bursary in accordance with any by-law is exempt from payment of fees and charges to the extent of the exemption applicable under the scholarship or bursary.

(3) A college may exempt a student from the payment of the whole or any part of a fee or charge otherwise payable by him if it considers that the payment of the whole or part of the fee or charge, as the case may be, would cause substantial hardship to him.

(4) There shall also be payable to a college fees of such amounts as are determined by its council for the provision by the college of consultancy services.

#### **56. Payments to council members in respect of attendance at meetings**

(1) Subject to subsection (3), the chairman and other members of a council appointed by the Minister, and the member of a council elected by the students of the college, shall be paid by the council in respect of their attendance at council meetings remuneration, allowances and expenses at such rates, or of such amounts, as are determined by the Minister.

(2) A determination under subsection (1) may make different provision with respect to different members of a council.

(3) Subsection (1) does not apply to a member who is an employee as defined in the *Public Sector Employment and Management Act*.

**57. [Repealed]**

**58. Proper accounts to be kept**

The Secretary shall cause to be kept proper accounts and records of the transactions and affairs of a college, and shall do all things necessary to ensure that all payments out of the moneys of the college are correctly made and properly authorized and that adequate control is maintained over the property of, or in the custody of, the college and over the incurring of liabilities by the college.

**59. Gifts, &c., and trust funds**

(1) In exercising its powers to acquire, hold, deal with or dispose of real or personal property, a college may agree to and carry out the conditions of a gift, grant, bequest, devise, purchase, lease or other means whereby it acquires or holds property, and the council of the college may create and administer such trust fund or funds in connection therewith, or for any other purpose, as it thinks fit.

(2) Subsection (1) does not apply to grants or other receipts from the Territory or the Commonwealth.

**60. [Repealed]**

**60A. Budget and financial information**

(1) A council –

- (a) shall in each financial year, adopt for the next following financial year a budget for all funds of the college, other than those to which paragraph (b) relates, and shall approve all amendments to the budget and control the expenditure of the college so that it conforms as nearly as practicable to the approved budget; and
- (b) shall review periodically (and not less than annually) funds available to the college by way of bequest, donation or special grant and the expenditure thereof, and, subject to the terms of a trust and before any such expenditure is made, approve the proposed disposition of those funds.

(2) As soon as practicable after adopting or amending a budget under subsection (1)(a), a council shall forward to the Secretary a copy of the budget or amendment, as the case may be.

(3) The Secretary shall if the Minister so directs after consultation with the Authority require a council, by notice in writing, to vary a budget in a manner specified in the notice, and the council shall comply with the requirement.

(4) The Secretary may at any time require a council to provide him with such information as, in his opinion, is necessary to enable him to accurately assess the financial affairs of the college, and the council shall provide that information accordingly.

#### **60B. Annual report**

(1) The Director of a college that is an Agency for the purposes of the *Financial Management Act* shall, within the period of 6 months immediately following the end of the financial year or such other period as the Minister determines, prepare a report on the operations of the college during the financial year and forward it to the Minister.

(2) The Minister shall table the report under subsection (1), together with the financial statement and report of the Auditor-General on the financial statement required under section 10 or 11 of the *Financial Management Act*, in the Legislative Assembly within 6 sitting days of the Assembly after the delivery of the later of the reports to the Minister.

### *Division 6 – Miscellaneous*

#### **60C. Trading, &c., corporations**

A council may with the approval of the Treasurer establish by incorporation, or participate in the establishment of, such trading, research or other corporations as the council thinks fit for the purpose of promoting or assisting, or in connection with the functions of, the college.

#### **60D. Delegation**

(1) A council may by instrument in writing delegate to the Director of the college, a Chief Executive Officer within the meaning of the *Public Sector Employment and Management Act* or a person any of its powers or functions under this Act other than this power of delegation and the power of the council to make by-laws.

(2) A power or function delegated under this section, when exercised or performed by the delegate, shall for the purposes of this Act be deemed to have been exercised or performed by the council.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the council.

**60E. Terms of contract and execution of documents**

(1) A deed, instrument, contract or agreement relating to any property or matter which, if made or executed by an individual, would by law be required to be in writing under seal may be made on behalf of a college in writing under its common seal.

(2) An instrument, contract or agreement relating to any property or matter which, if made by or between individuals would be required to be in writing signed by the parties to be charged therewith, may be made on behalf of a college in writing by a person acting under the authority, express or implied, of its council.

(3) A contract relating to any property or matter which, if made between individuals, would by law be valid although made by parol only (and not reduced to writing) may be made on behalf of a college by a person acting under the authority, express or implied, of its council.

(4) A contract entered into or an instrument, contract or agreement signed in relation to any property or obligation of a college shall be deemed to have been entered into or signed with the express authority of its council if it is entered into or signed in accordance with a resolution of the council for the time being in force.

**60F. Protection of members**

No action or proceeding, civil or criminal, shall be commenced or lie against a member of a council for or in respect of an act or thing done or omitted to be done in good faith –

- (a) by him in his capacity as such a member; or
- (b) by the college or that council,

in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Part.

**60G. Validity of proceedings**

No proceedings of a council or of a committee of a council, and no act done by the Director of a college as a delegate of its council, shall be invalidated by reason only of –

- (a) a defect in the appointment or election of, or a disqualification of, a member of the council;
- (b) a defect in the convening or conduct of a meeting of the council or of a committee of the council;

- (c) there being a vacancy in the membership of the council or of a committee of the council; or
- (d) a contravention or non-compliance with section 50 by a member of the council or of a committee of the council.

**60H. By-laws**

(1) A council may make by-laws, not inconsistent with this Part, prescribing matters –

- (a) required or permitted by this Part to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) Without limiting the generality of subsection (1), a council's by-laws may in particular make provision relating to –

- (a) the use and custody of the common seal of the college;
- (b) the method of election of members of the council, including procedures relating to nominating, enrolling and voting and the counting of votes and the declaration of polls;
- (c) the manner and time of convening, holding and adjourning the meetings of the council, voting at such meetings, the powers and duties of the chairman or other person presiding at a meeting, and the conduct and recording of the business thereat;
- (d) the appointment of committees of the council, and the quorum, powers and duties of such committees;
- (e) the admission of students to courses conducted by the college;
- (f) the holding of, and admission of persons to, examinations of the college;
- (g) the awards of the college and the requirements for making them;
- (h) the granting of scholarships, bursaries and prizes by the college;
- (j) the admission of students of other educational institutions to a corresponding status or of graduates of other educational institutions to a corresponding qualification of the college without examination;

*Education Act*

- (k) the establishment, management and control of libraries and museums in connection with the college;
  - (m) the establishment, management and control of halls of residence established, and other accommodation provided, by the college;
  - (n) the control and investment of the property of the college, including property held on trust or subject to a condition;
  - (p) the protection of the property of or under the control of the college from trespass, damage or misuse;
  - (q) the regulation and control of access to, and the use of, land and buildings the property of or under the control of the college and the conduct of persons and the presence and use of vehicles thereon;
  - (r) student discipline; and
  - (s) the making of rules.
- (3) Without limiting the generality of subsection (1), a by-law may –
- (a) provide, in the case of an offence of –
    - (i) bringing a vehicle onto or parking or standing a vehicle on a site in breach of a by-law;
    - (ii) driving a vehicle on a part of a site in breach of a by-law;
    - (iii) driving a vehicle on a part of a site at a speed in excess of a speed that, in relation to that part, is prescribed, determined by a method prescribed or fixed by a person authorized by a by-law so to do in respect of the site or that part;
    - (iv) driving a vehicle on a part of a site contrary to a direction, whether given by a person authorized by a by-law so to do or by a traffic control device on the site; or
    - (v) doing on a site with or in respect of a vehicle such other act as is prescribed,

that the person who was in charge of the vehicle at the material time or the owner of the vehicle (whether or not he was in charge of the vehicle at the material time) shall be liable to be punished for the offence;

- (b) define who is the owner of a vehicle for the purposes of the by-laws;

## *Education Act*

- (c) provide for the removal or disposal of a vehicle –
  - (i) parked or left standing on a site in such a position as to obstruct, interfere with or cause danger to other vehicles on the site or to users of the site; or
  - (ii) apparently abandoned on a site; and
- (d) prescribe the proof that is necessary or sufficient to establish a matter relevant to an offence created by the by-laws.

(4) A by-law referred to in subsection (3)(a) shall not be so construed that the owner of a vehicle and the person in charge of it at the time an offence was committed with or in respect of the vehicle shall both be liable for the one offence.

(5) In subsection (3), "site" means land or a building the property of or under the control of the college.

(6) By-laws under this section are not subordinate legislation for the purposes of section 57 of the *Interpretation Act*.

(7) Section 63 of the *Interpretation Act* does not apply to by-laws under this section.

### **60J. Rules**

(1) A council may make rules (not inconsistent with this Part or any by-law) for carrying into effect any of the provisions of this Part or of by-laws.

(2) Rules shall be signed by a person authorized by the council to sign them.

(3) Rules shall be published in such manner as is provided for in by-laws, and shall take effect from the date of publication or, where a later date is provided for in the rules, from that later date.

(4) It is sufficient compliance with the requirements of subsection (3) if notice of the making of the rules and the place where copies of them may be obtained is published on a board nominated in by-laws as the main notice board of the college.

(5) Section 63 of the *Interpretation Act* does not apply to rules under this section.

(6) Rules under this section are not subordinate legislation for the purposes of section 57 of the *Interpretation Act*.

**60K. Penalties under by-laws and rules**

(1) A by-law or rule may impose, or empower the council or an officer of the college or a body established in accordance with the By-laws to impose, a penalty not exceeding –

- (a) in the case of a by-law – \$1,000; and
- (b) in the case of a rule – \$20,

for a contravention of or failure to comply with a by-law or rule.

(2) A penalty imposed under a power conferred by a by-law or rule is a debt due and payable by the person on whom it is imposed to the college, and in proceedings for its recovery from that person, a certificate signed by an officer of the college and specifying the person or body by whom it was imposed, the date on which it was imposed and the amount thereof shall be prima facie evidence of the matters specified.

**60M. Removal of collegiate status**

(1) The Minister may by notice in the *Gazette* declare that a college shall, on a date specified in the notice, cease to be a college for the purposes of this Act.

(2) On the date specified in a notice under subsection (1), the college to which the notice relates shall cease to be a body corporate and all property, rights and liabilities of the college shall, subject to and in accordance with any regulations under this Act, become property, rights and liabilities of the Territory.

**PART VII – NON-GOVERNMENT EDUCATIONAL INSTITUTIONS**

*Division 1 – Definitions*

**61. Definitions**

For the purposes of this Part –

"authorized" means authorized by the Secretary;

"educational institution" means –

- (a) a non-Government school; or
- (b) a pre-school, other than a pre-school wholly established and wholly maintained by the Minister;

"prescribed requirements", in relation to a registered educational institution or class of registered educational institutions, means the

requirements prescribed as the requirements under which the institution or class of institutions shall operate;

"public officer", in relation to an educational institution, means the person referred to in section 63(1)(h) nominated by the institution for the service of notices under this Act;

"registered" means registered under section 64(1)(a);

"students" includes children.

***Division 2 – Registration, &c., of Educational Institutions***

**62. Application for registration of educational institution**

(1) Subject to this Part, the person who has the management or control of the affairs of an educational institution may apply to the Secretary for registration of the institution.

(2) Where, in relation to an educational institution, there is more than one person of a description referred to in subsection (1), a person, authorized by a resolution of the governing authority of the institution, may make an application under that subsection.

**63. Form of application**

(1) An application under section 62(1) for registration of an educational institution shall be in writing and shall contain particulars of –

- (a) the name and address of the institution;
- (b) the method of management of the affairs of the institution;
- (c) the minimum educational qualifications of teachers or lecturers to be employed at the institution;
- (d) the curriculum in accordance with which instruction is to be provided at the institution;
- (e) the maximum and minimum ages of and the maximum number of students to be enrolled at the institution;
- (f) the buildings and facilities to be used by or available to the institution;
- (g) its financial position at the time of the application and the means by which it is proposed to finance the continued operation of the institution; and

- (h) the name and designation of a person nominated by the institution for the service of notices under this Act.

(2) An applicant shall furnish to the Secretary such further particulars of the matters referred to in subsection (1) as the Secretary specifies in a written request delivered to the applicant.

#### **64. Determination of application**

(1) Subject to this Part, the Secretary may, by notice in writing delivered to the applicant, determine an application under section 62(1) for registration of an educational institution by –

- (a) registering the institution; or
- (b) refusing to register the institution.

(2) Subject to section 66, the Secretary may register an educational institution subject to such conditions (which may include a condition expressing a limited period for the registration), if any, as are specified in the notice referred to in subsection (1) which relates to the institution.

(3) The Secretary shall not register an educational institution unless he is satisfied that the institution shall be operating, upon its registration, in accordance with the prescribed requirements or so much of the prescribed requirements as are applicable to it.

(4) Where the Secretary refuses to register an educational institution or registers an educational institution subject to conditions, the Secretary shall, in the notice referred to in subsection (1) which relates to the institution, set out details of the reasons for the refusal or the imposition of the conditions.

#### **65. Cancellation, &c., of registration**

(1) The Secretary may, on an application made to him in writing by the public officer of a registered educational institution –

- (a) cancel;
- (b) suspend, for the period specified in the application; or
- (c) vary, in the manner specified in the application, a condition of,

the registration of the institution by notice in writing delivered to the public officer.

(2) Where the Secretary is of the opinion that a registered educational institution is not operating in accordance with the prescribed requirements or so

much of the prescribed requirements as are applicable to it, he may, by notice in writing delivered to the public officer of the institution, require the public officer to show cause why –

- (a) the registration of the institution should not be –
  - (i) cancelled; or
  - (ii) suspended for the period specified in the notice;
- (b) a condition of the registration of the institution should not be varied in the manner specified in the notice; or
- (c) the registration of the institution should not be subject to a condition specified in the notice.

(3) Subject to section 66, the Secretary may, not less than 3 months after the date of delivery of a notice under subsection (2), by notice in writing delivered to the public officer of the educational institution which is the subject of the first-mentioned notice –

- (a) cancel the registration of the institution;
- (b) suspend the registration of the institution for the period specified in the first-mentioned notice;
- (c) vary a condition of the registration of the institution in the manner specified in the first-mentioned notice; or
- (d) impose a condition on the registration of the institution in the manner specified in the first-mentioned notice.

(4) For the purposes of subsection (3), the Secretary may take into account a report referred to in section 67(2) made in relation to an educational institution referred to in that subsection.

(5) Subject to section 68(4), the cancellation or suspension under subsection (1) or (3) of the registration of an educational institution, or the variation under subsection (1) or imposition under subsection (3) of a condition of such registration, shall have effect on and from such date as the Secretary specifies in the notice delivered under subsection (1) or (3), as the case may be, which relates to the institution.

**66. Secretary not to cancel, &c., registration in certain circumstances**

The Secretary –

- (a) shall not refuse to register an educational institution;

*Education Act*

- (b) shall not cancel, under section 65(3)(a), or suspend, under section 65(3)(b), the registration of an educational institution; or
- (c) shall not impose, under section 64(2) or 65(3)(d), a condition on, or vary, under section 65(3)(c), a condition of, the registration of an educational institution,

if the educational institution –

- (d) in relation to registering an educational institution – will, upon its registration, be operating in accordance with the prescribed requirements or so much of the prescribed requirements as are applicable to it; and
- (e) in any other case – is operating in accordance with the prescribed requirements or so much of the prescribed requirements as are applicable to it.

*Division 3 – Visits*

**67. Visits by authorized persons**

- (1) The Secretary –
  - (a) shall, not less than once a year; and
  - (b) may, at such times as he thinks fit (including at the request of the governing authority or head teacher of a registered educational institution),

cause a registered educational institution to be visited by an authorized person for the purpose of –

- (c) determining whether the institution is operating in accordance with the prescribed requirements or so much of the prescribed requirements as are applicable to it; and
- (d) where the visit by the authorized person is at the request of the governing authority or head teacher of the institution – advising the governing authority or head teacher in relation to matters connected with the administration of the institution.

(2) An authorized person who visits for the purpose referred to in subsection (1)(c) a registered educational institution shall, as soon as practicable after the visit, submit to the Secretary a report on whether the institution is operating in accordance with the prescribed requirements or so much of the prescribed requirements as are applicable to it, and the Secretary shall, as soon as

practicable after receiving the report, furnish a copy of it to the public officer of the institution.

(3) The Secretary may, at the request of the governing authority or head teacher of a registered educational institution, cause the institution to be visited by a medical practitioner or a health practitioner who has a right of practice under the *Health Practitioners Act* in the category of health care practice of nursing or dentistry for the purpose of medical or dental examination of the students who attend the institution or for the purpose of advising the governing authority or head teacher of the institution on any matter relating to the health or welfare of the students enrolled at the institution.

#### ***Division 4 – Appeals***

#### **68. Appeal to Minister**

(1) An applicant for registration of an educational institution who is dissatisfied with a determination under section 64(1) of the Secretary may appeal to the Minister.

(2) The public officer of a registered educational institution who is dissatisfied with a decision under section 65(1) or (3) of the Secretary may appeal to the Minister.

(3) A person intending to appeal under subsection (1) or (2) shall, not later than 28 days after the day on which he receives the notice referred to in section 64(1) or 65(1) or (3), as the case may be, serve on or post to the Minister and the Secretary a notice in writing of his intention to appeal.

(4) The making of an appeal under this section operates as a stay of action to implement the decision which is the subject of the appeal.

- (5) The Minister may determine an appeal under this section by –
- (a) affirming, setting aside or varying the decision of the Secretary;  
and
  - (b) making such other order as he thinks fit.

*Division 5 – Miscellaneous*

**68A. Offence to manage, &c., institution which is not registered**

A person who has the management or control of the affairs of an educational institution, established for the purpose of providing or offering to provide courses of instruction in primary or secondary education to a child of compulsory school age, which is not registered, is guilty of an offence.

Penalty: \$2,000.

**68B. Secretary may exempt, &c., educational institutions from operating in accordance with prescribed requirements**

The Secretary may, by instrument in writing, exempt, upon such conditions as he thinks fit –

- (a) an educational institution; or
- (b) a class of educational institutions,

from operating in accordance with the prescribed requirements specified in the instrument and, where such an exemption is made, the educational institution, or an educational institution of the class of educational institutions, the subject of the exemption is, accordingly, exempted.

**68C. Records**

(1) The head teacher of a registered educational institution shall keep such records in relation to the attendance and the educational performance of students enrolled at the institution as are prescribed or as the Secretary determines.

(2) The head teacher of a registered educational institution shall furnish the Secretary with such returns in relation to the attendance and the educational performance of students enrolled at the institution and at such times as are prescribed or as the Secretary determines.

Penalty: \$200.

## **PART VIII – COURSES OF INSTRUCTION**

### **69. General powers of Secretary**

(1) Subject to this section, the Secretary shall be responsible to the Minister for –

- (a) the curricula in accordance with which instruction is provided in Government schools or in accordance with which secondary education is provided by a college; and
- (b) the standards of education in those schools and the standard of secondary education provided by those colleges.

(2) Without limiting the generality of subsection (1), the Secretary may provide either generally or in relation to a particular educational institution –

- (a) subject to section 10J(b) and (c), such examination or assessment systems or arrangements as he considers necessary or desirable; and
- (b) in the case of a Government school – such curriculum guidelines and directions as to the content, methods and evaluation of teaching and learning as he considers appropriate.

(3) For the purposes of subsection (2)(a), the Secretary may make arrangements with one or more educational institutions in Australia, or with one or more of the States that administer education services, for the provision in the Territory of examination systems provided by such an educational institution or in such a State.

- (4) This Part does not apply to or in relation to the University.

## **PART IX – SCHOOL COUNCILS**

### **70. Interpretation and scope**

- (1) In this Part, unless the contrary intention appears –

"school council" means a school council established under section 71(1) by the Minister and, in respect of subsection (2) and sections 71B, 71D, 71E, 71F, 71G, 71H, 71J, 71K and 71M, includes a school management council and a group school management council established by the Minister under section 71(5).

- (1A) This Part does not apply to or in relation to a college.

(2) Unless express provision is made to the contrary in this Act or the Regulations, the *Financial Management Act*, *Audit Act* and *Procurement Act* do not apply to or in relation to a school council.

**71. Establishment of school councils**

(1) Subject to subsection (2), the Minister may, at the request of an interested body –

- (a) involved in the management of a Government school; or
- (b) from the community served by a Government school,

by notice in the *Gazette*, establish a school council for the Government school.

(2) The Minister shall not establish under subsection (1) a school council unless he is satisfied that the school council shall be operating, upon its establishment under that subsection, under and in accordance with this Part.

(3) A school council shall consist of such members as are prescribed.

(4) The members of a school council shall hold office upon such terms and conditions as are prescribed.

(5) The Minister may, by notice in the *Gazette*, establish –

- (a) a school management council for the Government school; or
- (b) a group school management council for the Government schools,

specified in the notice.

(6) The Minister may establish a school management council or group school management council under subsection (5) notwithstanding that a school council has been established for the Government school or any of the Government schools, as the case may be, in respect of which it is established.

(7) A school management council shall consist of the head teacher from time to time of the Government school for which it is established or such other person as the Minister may appoint in place of the head teacher.

(8) A group school management council shall consist of the person appointed by the Minister.

(9) An appointment under subsection (8) may be made by reference to the person from time to time holding, acting in or performing the duties of an office, designation or position in the Department of Education.

**71A. Restrictions on school councils**

- (1) Subject to subsection (2), a school council shall –
  - (a) be constituted in accordance with the Regulations;
  - (b) comply with the terms of reference, if any, determined under section 71D(2) for the school council; and
  - (c) adopt the guidelines, if any, prepared and published under section 71J(1).

(2) The Minister may, in his discretion, upon such terms and conditions as he thinks fit, exempt a school council from the requirements of subsection (1)(c).

**71B. Incorporation of school councils**

- (1) A school council shall be –
  - (a) a body corporate with perpetual succession and a common seal; and
  - (b) capable, in its corporate name, of –
    - (i) acquiring, holding and disposing of real and personal property; and
    - (ii) suing and being sued.

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of a school council affixed to a document and shall presume that it was duly affixed.

**71C. Functions of school councils**

- (1) A school council may, in respect of the Government school for which it is established –
  - (a) examine the manner in which the educational policies of the Territory are to be implemented at that Government school and, to this end, to advise the head teacher accordingly;
  - (b) inquire into and identify the particular educational needs of the community served by that Government school and advise the Secretary of those needs;
  - (c) consider and advise the head teacher and Secretary on initiatives in community education and, in particular, on means for improving

## *Education Act*

links between that Government school, parent organizations, other associations and the community in general;

- (d) assess, from time to time, the needs of that Government school in relation to buildings and facilities, equipment, and needs of students and teachers and other staff and make recommendations to the Secretary with respect to the provision of those needs;
- (e) within the scope allowed by the functions and powers conferred or imposed upon it, determine the purposes for which moneys allocated by the Department of Education to that Government school are to be expended and to expend those funds accordingly;
- (f) determine and regulate the conduct of activities for the benefit of the local community served by that Government school at any time when that Government school's buildings or grounds are not required for their usual purposes;
- (g) exercise general control of the buildings and grounds of that Government school, including, with the consent of the Secretary, controlling the conduct of work being carried out to or in relation to those buildings or grounds, upon such terms and conditions as are approved in writing by the Secretary;
- (h) control the manner in which prescribed services are being rendered for that Government school;
- (j) advise the Secretary in relation to the job description for the position of head teacher;
- (k) advise the head teacher in relation to the job descriptions for teaching and ancillary staff;
- (m) employ, with the consent of the Secretary, such persons, as the school council thinks fit, upon such terms and conditions as is approved in writing by the Secretary;
- (n) carry out such activities as are approved by the Secretary for the purpose of raising funds to be expended on or in relation to that Government school and to expend such funds accordingly; and
- (p) perform such other functions as the Minister, by instrument in writing, confers upon the school council.

(1A) A school management council or group school management council established under section 71(5) may, in respect of the Government school or Government schools, as the case may be, for which it is established, perform

the functions conferred on a school council under subsection (1)(b), (d), (e), (f), (g), (h), (m), (n) or (p) as if it were a school council.

(1B) Where, in respect of a Government school, there is established a school council and a school management council or group school management council, the school council shall not, except with the approval of the Secretary, perform a function conferred on it under subsection (1) which is also conferred on the school management council or group school management council under subsection (1A).

(2) The Minister may enter into discussions with a school council and give such directions as he thinks fit regarding the manner in which the functions of the school council are to be performed.

(3) In the performance of its functions, a school council shall comply with the directions, if any, given under subsection (2) by the Minister and applicable to that school council.

#### **71D. Powers of school councils and terms of reference**

(1) A school council has power to do such things as are necessary or convenient to be done for, or in connection with, the performance of its functions.

(2) The Minister may, in respect of a school council, by instrument in writing, determine terms of reference for the school council.

#### **71E. Power to enter into agreements**

Without limiting the generality of section 71D(2), the Minister may, in determining under that section the terms of reference for a school council, determine that the school council shall not, except with the approval in writing of the Minister, enter into an agreement involving the payment by that school council of an amount in excess of an amount specified in that determination by the Minister.

#### **71F. Power to make grants**

The Minister may, upon such terms and conditions as he thinks fit, make a grant of money to a school council.

#### **71G. Moneys of school council**

The moneys of a school council consist of –

- (a) moneys allocated by the Department of Education to the Government school in respect of which the school council is established;

- (b) moneys raised in pursuance of section 71C(1)(n) by the school council; and
- (c) moneys granted under section 71F to the school council.

**71H. Accounts**

(1) A school council shall cause accounts to be kept in the prescribed manner, or in such manner not inconsistent with the Regulations as is specified in writing by the Secretary acting with the advice of the Treasurer, of any moneys received by it and any dealings with those moneys.

(2) The Secretary, or a person authorized in writing for that purpose by the Secretary, may, at any time, inspect or audit the accounts of a school council.

**71J. Guidelines**

(1) The Minister may cause to be prepared and published for the guidance of school councils, guidelines, not inconsistent with this Act, for or in relation to the exercise of powers and the performance of functions conferred or imposed by this Act upon school councils.

(2) Without limiting the generality of subsection (1), guidelines prepared and published in accordance with that subsection may be made for and in relation to such matters as –

- (a) regulating the constitution or establishment of committees to be affiliated with a school council for the purposes of aiding the school council in the exercise of its powers and the performance of its functions;
- (b) regulating the calling of meetings of school councils and of affiliated committees of school councils and of meetings of citizens and teachers;
- (c) regulating proceedings and voting at meetings of school councils, affiliated committees of school councils and meetings of citizens and teachers;
- (d) regulating a school council's provision of meals or refreshments for the staff or students of the Government school for which it is established and the charges it may make therefor;
- (e) regulating, subject to section 71H, the manner in which a school council shall cause proper accounts to be kept of any moneys received by it and dealings with those moneys and of the auditing of those accounts;

- (f) prohibiting a school council, or a member of a school council when acting in that capacity, from giving instructions to teachers concerning their professional duties;
- (g) prohibiting, except with the approval of the Secretary in each particular case, a member of a school council from being financially interested, either directly or indirectly, in works or services executed or rendered for the Government school for which it is established and authorized by the school council; and
- (h) regulating the conduct of inquiries and investigations into complaints against teachers, including the head teacher.

**71K. Abolition of school council**

- (1) The Minister may, in respect of a school council, where –
  - (a) the Government school for which the school council is established is closed;
  - (b) the school council so requests; or
  - (c) in the opinion of the Minister, the school council is not complying with the requirements of this Act in so far as those requirements are applicable to that school council,

by instrument in writing, abolish that school council.

(2) Subject to subsection (3), the money, books, records and property of a school council abolished under subsection (1), and of a Government school referred to in subsection (1)(a), shall be forwarded, as directed by the Minister, by the person or persons having custody thereof and the Minister may apply any such money, books or property for the purposes of any Government school or school council.

(3) The school council for a Government school referred to in subsection (1)(a) may direct that, upon its abolition, money, books and property belonging to that school council be given to the Minister for the benefit of a specified Government school, or to a specified school council, and that money, books and property shall, accordingly, be used by the Minister for the benefit of the specified Government school, or become the money, books and property of the specified school council, as the case may be.

**71M. Protection of members**

No action or proceeding, civil or criminal, shall be commenced or lie against a member of a school council for or in respect of an act or thing done or omitted to be done in good faith –

- (a) by him in his capacity as such a member; or
- (b) by the school council,

in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Part.

**71N. By-laws**

(1) A school council may make by-laws, not inconsistent with this Part or the Regulations, prescribing matters –

- (a) required or permitted by this Part to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) Without limiting the generality of subsection (1), a school council's by-laws may in particular make provision relating to –

- (a) the protection of school property from trespass, damage or misuse;
- (b) the regulation or prohibition of access to and use of school property; and
- (c) the regulation of the conduct of persons or the use of vehicles on school property.

(3) By-laws shall be signed by a person authorised by the school council to sign them.

(4) By-laws under this section are not subordinate legislation for the purposes of section 57 of the *Interpretation Act*.

(5) Section 63 of the *Interpretation Act* does not apply to by-laws under this section.

**71P. Rules**

(1) A school council may make rules (not inconsistent with this Part, the Regulations or any by-law) for carrying into effect any of the provisions of this Part or of by-laws.

(2) Rules shall be signed by a person authorised by the school council to sign them.

(3) Rules shall be published in such manner as is provided for in by-laws, and shall take effect from the date of publication or, where a later date is provided for in the rules, from that later date.

(4) It is sufficient compliance with the requirements of subsection (3) if notice of the making of the rules and the place where copies of them may be obtained is published on a board nominated in by-laws as the main notice board of the school council.

(5) Rules under this section are not subordinate legislation for the purposes of section 57 of the *Interpretation Act*.

(6) Section 63 of the *Interpretation Act* does not apply to rules under this section.

#### **71Q. Penalties under by-laws and rules**

(1) A by-law or rule may impose, or empower the school council or an officer of the school council to impose, a penalty not exceeding –

(a) in the case of a by-law – \$1,000; and

(b) in the case of a rule – \$20,

for a contravention of or failure to comply with a by-law or rule.

(2) A penalty imposed under a power conferred by a by-law or rule is a debt due and payable by the person on whom it is imposed to the school council, and in proceedings for its recovery from that person, a certificate signed by an officer of the school council and specifying the person or body by whom it was imposed, the date on which it was imposed and the amount of the debt, shall be prima facie evidence of the matters specified.

### **PART X – MISCELLANEOUS**

#### **72. Medical and dental inspections**

The Minister may cause any Government school to be visited by a medical practitioner or a health practitioner who has a right of practice under the *Health Practitioners Act* in the category of health care practice of nursing or dentistry for the purpose of medical or dental examination of the children who attend the school or for the purpose of advising the head teacher of the school on any matter relating to the health or welfare of the children who attend the school.

**73. Religious instruction in government schools**

(1) Subject to this section, the Secretary may make regular provision for religious instruction to be given to the children in attendance at a Government school under such conditions and at such times during which the school is open for instruction as he thinks fit.

(2) Upon the request, in writing, of the parents of a child or children in attendance at a Government school, the Secretary shall, where he considers it practicable, permit a person who is a minister of religion and is nominated by those parents or a person authorized by such a minister of religion, during school hours, to give to the children in attendance at that Government school whose parents wish them to receive religious instruction from that minister of religion or a person authorized by that minister of religion, religious instruction during not less than half an hour in every week when instruction is provided at the school for children, on such days and at such times as the Secretary determines.

**73A. [Repealed]**

**74. Offences**

(1) Proceedings for an offence against this Act shall not be commenced without the consent of the Minister.

(2) In any proceedings for an offence against this Act, an apparently genuine document purporting to be under the hand of the Minister and to record his consent to the commencement of the proceedings shall be accepted as proof of that consent in the absence of proof to the contrary.

**75. Regulations**

(1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters –

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1) –

- (a) regulations made for the purposes of Part IX may apply generally to a school council within the meaning of that Part or may apply to classes of such school councils as specified in the regulations; and
- (b) regulations may provide for penalties not exceeding \$1,000 for offences against the regulations.

**SCHEDULE 1**

Section 3(1)

**ACTS OF THE STATE OF SOUTH AUSTRALIA**

*Education Act 1875* (No. 11 of 1875)

*Education Amendment Act 1878* (No. 122 of 1878)

*Education Further Amendment Act 1879* (No. 154 of 1879)

*Education Acts Amendment Act 1891* (No. 507 of 1891)

*Education Acts Amendment Act 1905* (No. 892 of 1905)

**SCHEDULE 2**

Section 3(2)

**ORDINANCES**

*Darwin Community College Ordinance 1973* (No. 42 of 1973)

*Darwin Community College Ordinance (No. 2) 1973* (No. 74 of 1973)

*Education Ordinance 1957* (No. 43 of 1957)

*Education Ordinance 1962* (No. 42 of 1962)

*Education Ordinance 1965* (No. 13 of 1965)

*Education Ordinance (No. 2) 1965* (No. 66 of 1965)

*Education Ordinance 1973* (No. 57 of 1973)

*School Committee Ordinance 1934* (No. 26 of 1934)

*School Committee Ordinance 1956* (No. 30 of 1956)

*School Committee Ordinance 1962* (No. 1 of 1963)

*School Committee Ordinance 1963* (No. 4 of 1964)

*School Committee Ordinance 1972* (No. 27 of 1972)

## ENDNOTES

### 1. KEY

Key to abbreviations

**amd** = amended

**bl** = by-law

**ch** = Chapter

**div** = Division

**exp** = expires/expired

**Gaz** = *Gazette*

**hdg** = heading

**ins** = inserted

**om** = omitted

**pt** = Part

**r** = regulation/rule

**renum** = renumbered

**rep** = repealed

**s** = section

**sch** = Schedule

**sdiv** = Subdivision

**SL** = Subordinate Legislation

**sub** = substituted

### 2. LIST OF LEGISLATION

#### ***Education Act 1979 (Act No. 77, 1979)***

Assent date 2 July 1979

Commenced ss 61 – 68: 7 May 1982; Remainder: 20 July 1979 (*Gaz*G29, 20 July 1979, p 7)

#### ***Education Act (No. 2) 1979 (Act No. 145, 1979)***

Assent date 12 December 1979

Commenced 12 December 1979

#### ***Remuneration Statutory Bodies) Act 1979 (Act No. 9, 1980)***

Assent date 14 January 1980

Commenced 8 February 1980 (*Gaz* G6, 8 February 1980, p 6)

#### ***Statute Law Revision Act (No. 3) 1979 (Act No. 37, 1980)***

Assent date 24 April 1980

Commenced 24 April 1980

#### ***Statute Law Revision Act 1980 (Act No. 6, 1981)***

Assent date 9 January 1981

Commenced 9 January 1981

#### ***Education Amendment Act 1981 (Act No. 32, 1981)***

Assent date 30 March 1981

Commenced 27 May 1981 (s 2 and s 2 *Teaching Service Act 1981* (Act No. 41, 1981) and *Gaz* S4, 27 May 1981)

#### ***Education Amendment Act 1982 (Act No. 95, 1982)***

Assent date 15 December 1982

Commenced 11 February 1983 (*Gaz* G6, 11 February 1983, p 8)

#### ***Education Amendment Act 1983 (Act No. 54, 1983)***

Assent date 8 November 1983

Commenced 8 November 1983

#### ***Education Amendment Act 1984 (Act No. 4, 1984)***

Assent date 3 April 1984

Commenced 22 August 1984 (*Gaz* G33, 22 August 1984, p 9)

## *Education Act*

### ***Education Amendment Act (No. 2) 1984 (Act No. 36, 1984)***

Assent date 20 July 1984  
Commenced 19 September 1984 (*Gaz* G37, 19 September 1984, p 6)

### ***Education Amendment Act 1985 (Act No. 1, 1985)***

Assent date 11 March 1985  
Commenced 11 March 1985

### ***Education Amendment Act (No. 2) 1985 (Act No. 61, 1985)***

Assent date 12 December 1985  
Commenced 16 December 1985 (s 2 and s 2 *Advanced Education and Darwin Institute of Technology Act 1985* (Act No. 59, 1985) and *Gaz* S7, 16 December 1985)

### ***Education Amendment Act 1988 (Act No. 61, 1988)***

Assent date 15 December 1988  
Commenced 1 January 1988 (s 2)

### ***Education Amendment Act (No. 2) 1988 (Act No. 4, 1989)***

Assent date 8 March 1989  
Commenced 1 July 1989 (s 2)

### ***Education Amendment Act 1991 (Act No. 64, 1991)***

Assent date 14 November 1991  
Commenced 18 December 1991 (s 2 and s 2 *Northern Territory Employment and Training Act 1991* (Act No. 62, 1991) and *Gaz* G50, 18 December 1991, p 7)

### ***Education Amendment Act (No. 2) 1991 (Act No. 71, 1991)***

Assent date 6 December 1991  
Commenced 20 December 1991 (*Gaz* S65, 20 December 1991)

### ***Dental (Consequential Amendments) Act 1991 (Act No. 75, 1991)***

Assent date 10 December 1991  
Commenced 31 January 1992 (*Gaz* S7, 31 January 1992)

### ***Statute Law Revision Act 1992 (Act No. 46, 1992)***

Assent date 7 September 1992  
Commenced 7 September 1992

### ***Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)***

Assent date 30 June 1993  
Commenced 1 July 1993 (s 2 and s 2 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993 and *Gaz* S53, 29 June 1993)

### ***Education Amendment Act 1994 (Act No. 24, 1994)***

Assent date 18 May 1994  
Commenced 1 July 1994 (*Gaz* G26, 19 June 1994, p 3)

### **Amending Legislation**

#### ***Education Amendment Act 1994 Amendment Act 1994 (Act No. 67, 1994)***

Assent date 1 December 1994  
Commenced 1 December 1994 (s 2)

## *Education Act*

### ***Education Amendment Act (No. 2) 1994 (Act No. 59, 1994)***

Assent date 24 October 1994  
Commenced 1 January 1995 (*Gaz* G50, 14 December 1994, p 2)

### ***Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)***

Assent date 21 March 1995  
Commenced 1 April 1995 (s 2 and s2 *Financial Management 1995* (Act No. 4, 1995) and *Gaz* S13, 31 March 1995)

### ***Medical (Consequential Amendments) Act 1995 (Act No. 8, 1995)***

Assent date 10 April 1995  
Commenced 1 June 1995 (s 2 and s 2 *Medical Act 1995* (Act No. 7, 1995) and *Gaz* S21, 1 June 1995)

### ***Statute Law Revision Act 1995 (Act No. 14, 1995)***

Assent date 23 June 1995  
Commenced 23 June 1995

### ***Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)***

Assent date 19 April 1996  
Commenced 1 July 1996 (s 2 and s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

### ***Education Amendment Act 1996 (Act No. 29, 1996)***

Assent date 28 June 1996  
Commenced 28 August 1996 (*Gaz* G35, 28 August 1996, p 3)

### ***Mental Health and Related Services (Consequential Amendments) Act 1999 (Act No. 11, 1999)***

Assent date 25 March 1999  
Commenced 1 February 2000 (s 2 and s 2 *Mental Health and Related Services Act 1998* (Act No. 63, 1998) and *Gaz* G3, 26 January 2000, p 2)

### ***Statute Law Revision Act 2000 (Act No. 19, 2000)***

Assent date 6 June 2000  
Commenced 12 July 2000 (*Gaz* G27, 12 July 2000, p 2)

### ***Education Amendment Act 2000 (Act No. 50, 2000)***

Assent date 1 November 2000  
Commenced 1 November 2000

### ***Statute Law Revision Act 2001 (Act No. 3, 2001)***

Assent date 22 March 2001  
Commenced 22 March 2001

### ***Northern Territory Employment and Training Authority (Consequential Amendments) Act 2002 (Act No. 47, 2002)***

Assent date 13 September 2002  
Commenced 6 November 2002 (s 2 and s 2 *Northern Territory Employment and Training Authority Act 2002* (Act No. 46, 2002) and *Gaz* G44, 6 November 2002, p 2)

### ***Education Amendment Act 2002 (Act No. 60, 2002)***

Assent date 7 November 2002  
Commenced 2 April 2003 (*Gaz* G13, 2 April 2003, p 4)

### ***Higher Education Act 2004 (Act No. 31, 2004)***

Assent date 6 June 2004  
Commenced 27 September 2006 (*Gaz* G39, 27 September 2006, p 5)

## *Education Act*

### ***Statute Law Revision Act (No. 2) 2004 (Act No. 54, 2004)***

Assent date                   15 September 2004  
Commenced                   27 October 2004 (*Gaz* G43, 27 October 2004, p 3)

### ***Statute Law Revision Act 2005 (Act No. 44, 2005)***

Assent date                   14 December 2005  
Commenced                   14 December 2005

### ***Statute Law Revision Act 2007 (Act No. 4, 2007)***

Assent date                   8 March 2007  
Commenced                   8 March 2007

## **3. SAVINGS AND TRANSITIONAL PROVISIONS**

s 8 *Education Amendment Act 1982* (Act No. 95, 1982)  
ss 17 to 27 *Education Amendment Act 1985* (Act No. 1, 1985)  
s 8 *Education Amendment Act 1996* (Act No. 29, 1996)

## **4. LIST OF AMENDMENTS**

s 4                   amd No. 1, 1985, s 3; No. 61, 1985, s 4; No. 61, 1988, s 4; No. 4, 1989, s 4; No. 64, 1991, s 3; No. 28, 1993, s 3; No. 24, 1994, s 3; No. 47, 2002, s 4; No. 54, 2004, s 7

s 6                   amd No. 1, 1985, s 4; No. 24, 1994, s 4

s 7                   amd No. 24, 1994, s 5

s 8                   amd No. 32, 1981, s 4; No. 36, 1984, s 4; No. 28, 1993, s 3; No. 24, 1994, s 6

s 9                   amd No. 32, 1981, s 5; No. 1, 1985, s 5; No. 4, 1989, s 5; No. 28, 1993, s 3; No. 24, 1994, s 7

s 9A                ins No. 95, 1982, s 4  
                    amd No. 24, 1994, s 8

s 10                amd No. 50, 2000, s 2

pt IIA hdg        ins No. 4, 1984, s 4

s 10A              ins No. 4, 1984, s 4  
                    amd No. 61, 1988, s 5; No. 59, 1994, s 3; No. 29, 1996, s 3; No. 60, 2002, s 4

s 10B              ins No. 4, 1984, s 4

s 10C              ins No. 4, 1984, s 4  
                    amd No. 1, 1985, s 6; No. 61, 1985, s 5; No. 61, 1988, s 6; No. 46, 1992, s 13; No. 24, 1994, s 9; No. 59, 1994, s 4; No. 14, 1995, s 4; No. 29, 1996, s 4; No. 60, 2002, s 5

s 10D              ins No. 4, 1984, s 4  
                    amd No. 60, 2002, s 6

s 10E              ins No. 4, 1984, s 4  
                    sub No. 60, 2002, s 7

s 10F              ins No. 4, 1984, s 4  
                    amd No. 60, 2002, s 18

s 10G              ins No. 4, 1984, s 4  
                    amd No. 1, 1985, s 7; No. 61, 1985, s 6; No. 61, 1988, s 7; No. 59, 1994, s 5; No. 29, 1996, s 5; No. 60, 2002, s 8

s 10H              ins No. 4, 1984, s 4  
                    amd No. 60, 2002, s 9

s 10J              ins No. 4, 1984, s 4  
                    amd No. 1, 1985, s 8  
                    sub No. 60, 2002, s 10

s 10K              ins No. 4, 1984, s 4

s 10M              ins No. 4, 1984, s 4  
                    amd No. 60, 2002, s 11; No. 54, 2004, s 7

s 10N              ins No. 4, 1984, s 4  
                    rep No. 60, 2002, s 12

## *Education Act*

ss 10P – 10Q	ins No. 4, 1984, s 4
s 10R	ins No. 4, 1984, s 4 amd No. 60, 2002, s 13
s 10S	ins No. 4, 1984, s 4 amd No. 60, 2002, s 18
s 10T	ins No. 4, 1984, s 4
s 11	amd No. 145, 1979, s 3; No. 54, 1983, s 3; No. 46, 1992, s 13; No. 28, 1993, s 3; No. 24, 1994, s 10; No. 14, 1995, s 4; No. 29, 1996, s 6; No. 60, 2002, s 14
s 11A	ins No. 24, 1994, s 11 amd No. 14, 1995, s 4; No. 29, 1996, s 7
s 11B	ins No. 24, 1994, s 11 amd No. 60, 2002, s 15
s 11C	ins No. 24, 1994, s 11 amd No. 60, 2002, s 16
s 12	amd No. 24, 1994, s 12; No. 60, 2002, s 18
s 13A	ins No. 24, 1994, s 13
s 13B	ins No. 60, 2002, s 17
pt III	
div 2 hdg	ins No. 1, 1985, s 9 rep No. 64, 1991, s 4
s 15	amd No. 54, 1983, s 4 sub No. 1, 1985, s 9 rep No. 64, 1991, s 4
s 16	sub No. 1, 1985, s 9 amd No. 61, 1985, s 7; No. 61, 1988, s 8 rep No. 64, 1991, s 4
s 17	amd No. 37, 1980, s 13 sub No. 1, 1985, s 9 rep No. 64, 1991, s 4
s 18	sub No. 1, 1985, s 9 rep No. 64, 1991, s 4
s 18A	ins No. 1, 1985, s 9 rep No. 64, 1991, s 4
s 18B	ins No. 1, 1985, s 9 amd No. 61, 1985, s 8; No. 61, 1988, s 9 rep No. 64, 1991, s 4
s 18C	ins No. 1, 1985, s 9 rep No. 64, 1991, s 4
s 18D	ins No. 1, 1985, s 9 rep No. 64, 1991, s 4
s 18E	ins No. 1, 1985, s 9 rep No. 64, 1991, s 4
s 18F	ins No. 1, 1985, s 9 rep No. 64, 1991, s 4
s 19	amd No. 1, 1985, s 10; No. 61, 1985, s 9; No. 61, 1988, s 10; No. 64, 1991, s 5
s 20	amd No. 9, 1980, s 6; No. 1, 1985, s 10; No. 64, 1991, s 6
s 21	sub No. 36, 1984, s 5
s 22	amd No. 17, 1996, s 6
s 25	amd No. 8, 1995, s 4; No. 44, 2005, s 22
s 27	amd No. 145, 1979, s 4; No. 24, 1994, s 14
s 29A	ins No. 24, 1994, s 15
s 31	amd No. 61, 1988, s 11
pt VI hdg	ins No. 4, 1989, s 6
pt VI	
div 1 hdg	ins No. 4, 1989, s 6

## *Education Act*

s 40	amd No. 4, 1984, s 5 sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 amd No. 24, 1994, s 16
pt VI div 2 hdg s 41	ins No. 4, 1989, s 6 sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 amd No. 46, 1992, s 13; No. 24, 1994, s 17
s 42	sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 amd No. 64, 1991, s 7
s 43	amd No. 4, 1984, s 6 sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6
pt VI div 3 hdg s 44	ins No. 4, 1989, s 6 sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 amd No. 24, 1994, s 18
s 45	amd No. 4, 1984, s 7 sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 amd No. 64, 1991, s 8; No. 28, 1993, s 3; No. 24, 1994, s 19
s 46	sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6; amd No. 24, 1994, s 20
s 47	sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 amd No. 24, 1994, s 21; No. 11, 1999, s 4
s 48	sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6
s 49	rep No. 6, 1981, s 4 ins No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 amd No. 24, 1994, s 22
s 50	sub No. 4, 1984, s 8; No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6
pt VI div 2 hdg s 51	ins No. 4, 1989, s 6 sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 sub No. 24, 1994, s 23
s 52	sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 amd No. 64, 1991, s 9; No. 24, 1994, s 24

## *Education Act*

pt VI	
div 5 hdg	ins No. 4, 1989, s 6
s 53	rep No. 6, 1981, s 4 ins No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 sub No. 24, 1994, s 25 rep No. 5, 1995, s 19
s 54	sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 rep No. 3, 2001, s 8
s 55	sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6
s 56	sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 amd No. 28, 1993, s 3
s 57	sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 rep No. 5, 1995, s 19
s 58	amd No. 95, 1982, s 5 sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6
s 59	sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6
s 60	sub No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 rep No. 5, 1995, s 19
s 60A	ins No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 amd No. 64, 1991, s 10
s 60B	ins No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 sub No. 5, 1995, s 19
pt VI	
div 6 hdg	ins No. 4, 1989, s 6
s 60C	ins No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6
s 60D	ins No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 amd No. 24, 1994, s 26
s 60E	ins No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6
s 60F	ins No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6

## *Education Act*

s 60G	ins No. 1, 1985, s 12 rep No. 61, 1985, s 10 ins No. 4, 1989, s 6 amd No. 24, 1994, s 27
s 60H	ins No. 4, 1989, s 6 amd No. 24, 1994, s 28; No. 4, 2007, s 7
s 60J	ins No. 4, 1989, s 6 amd No. 24, 1994, s 29; No. 4, 2007, s 7
ss 60K – 60M	ins No. 4, 1989, s 6
s 61	sub No. 36, 1984, s 6 amd No. 1, 1985, s 13; No. 61, 1985, s 11; No. 24, 1994, s 30
ss 62 –	
s 66	sub No. 36, 1984, s 6
s 67	sub No. 36, 1984, s 6 amd No. 44, 2005, s 22
s 68	sub No. 36, 1984, s 6
ss 68A –	
s 68C	ins No. 36, 1984, s 6
s 69	amd No. 4, 1984, s 9; No. 1, 1985, s 14; No. 61, 1985, s 12; No. 61, 1988, s 12; No. 24, 1994, s 31
s 70	sub No. 95, 1982, s 6 amd No. 1, 1985, s 15; No. 61, 1988, s 13; No. 4, 1989, s 7; No. 71, 1991, s 4; No. 24, 1994, s 32; No. 5, 1995, s 19
s 71	sub No. 95, 1982, s 6 amd No. 71, 1991, s 5; No. 19, 2000, s 9
ss 71A – s 71B	ins No. 95, 1982, s 6
s 71C	ins No. 95, 1982, s 6 amd No. 71, 1991, s 6
ss 71D –	
s 71K	ins No. 95, 1982, s 6
s 71M	ins No. 71, 1991, s 7
s 71N	ins No. 24, 1994, s 33 amd No. 4, 2007, s 7
s 71P	ins No. 24, 1994, s 33 amd No. 4, 2007, s 7
s 71Q	ins No. 24, 1994, s 33
s 72	amd No. 75, 1991, s 3; No. 44, 2005, s 22
s 73A	ins No. 24, 1994, s 34 rep No. 31, 2004, s 65
s 75	amd No. 36, 1984, s 7 sub No. 1, 1985, s 16 amd No. 24, 1994, s 35
s 76	amd No. 95, 1982, s 7 rep No. 1, 1985, s 16