



# Education (General Provisions) Act 1989

Reprinted as in force on 29 November 2004  
(includes commenced amendments up to 2004 Act No. 53)

Reprint No. 6B

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Queensland

# Education (General Provisions) Act 1989

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# Education (General Provisions) Act 1989

[as amended by all amendments that commenced on or before 29 November 2004]

## An Act to consolidate and amend the law relating to education and for related purposes

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Education (General Provisions) Act 1989*.

#### 2 Interpretation

(1) In this Act—

*accepted representations* see section 134E(2).

*alternative association member*, for the president of an association formed for a school, means a member of the association appointed by the president, under the association's constitution, as a person to attend meetings of the school council established for the school in the place of the president.

*annual report*, of the department, means the department's annual report under the *Financial Administration and Audit Act 1977*.

*appellant* see section 146D.

*appointed member* see section 54(13).

*approved form* see section 151.

*association* means a parents and citizens association formed under this Act and includes an interim parents and citizens association.

*at*, in relation to premises, includes in or on the premises.

*basic allocation* see section 5(1).

*board* means the Accreditation of Non-State Schools Board established under the *Education (Accreditation of Non-State Schools) Act 2001*.

*cancel*, the enrolment at a State educational institution of a student who is more than compulsory school age, means prohibit the student from attending the institution, whether for a stated period or permanently.

*casual vacancy* means a vacancy arising for a reason other than because a member has completed the member's term of office.

*compulsory school age* means at least 6 years and less than 15 years.

*coopted student member* see section 54(13).

*corporation* means the corporation sole preserved, continued in existence and constituted under this Act by the Minister for the time being by the name of 'The Minister for Education of Queensland'.

*distance education* means education provided where students and teachers are not regularly in the presence of each other for that purpose but communicate with each other in writing, by print or by electronic-means or other like-means.

*educational program* includes a program under arrangements approved under section 114A or 114B.

*Education Office gazette* means the official circular of the department.

*elected member* means—

- (a) an elected parent member; or
- (b) an elected staff member; or
- (c) an elected student member.

*elected parent member* see section 54(13).

*elected staff member* see section 54(13).

*elected student member* see section 54(13).



***employee***, of a non-State school or State school, means a person engaged to carry out work at the school for financial reward.

***exclude***, a student, means prohibit the student from attending a State educational institution or State educational institutions for a stated period or permanently.

***excluded person*** see sections 36(1) and (2) and 36E(3).

***extra semester***, for a student, means a semester of State education granted by the principal of a State educational institution to the student, under part 8, division 3.

***financial data***, for a non-State school in receipt of subsidy, means the following—

- (a) details of the school's recurrent income;
- (b) details of the school's capital income;
- (c) details of the school's recurrent expenses;
- (d) details of the school's capital expenses;
- (e) details of the school's profit or loss in carrying out each of its incidental business activities;
- (f) details of the school's loans;
- (g) other financial details, for the school, prescribed under a regulation.

***further semester***, for a student, means a semester of State education granted by the chief executive to the student, under part 8, division 5.

***indictable offence*** includes an indictable offence dealt with summarily.

***materials*** includes documents.

***model constitution***, for a school council, see section 60.

***non-State school*** means a school that is provisionally accredited, or accredited, under the *Education (Accreditation of Non-State Schools) Act 2001*.

***non-State school in receipt of subsidy*** means a school mentioned in paragraph (b) of the definition *school in receipt of subsidy* in section 134A(1).

***notice recommending exclusion*** see section 34(3).

***official member***, of a school council, means—

- (a) the school's principal; or
- (b) if there is an association formed for the school—the president of the association.

***original direction*** see section 146D.

***parent*** includes a guardian and every person who is liable to maintain or has the actual custody of a child.

***person under a cancellation*** see section 40.

***person with a disability*** see section 3(1).

***premises*** includes a building together with surrounding land.

***preschool education*** means educational programs appropriate to the needs of children below compulsory school age and before enrolment in year 1.

***president*** means the president of an association.

***primary education*** means education offered in years numbered 1 to 7, both inclusive.

***primary school*** means a school, not being a special school, providing primary education.

***principal***, of a non-State school with no position by that name, means the person responsible for the school's day-to-day management.

***principal's supervisor*** means the officer employed in the department who holds the position as the principal's supervisor.

***reasonably satisfied*** means satisfied on reasonable grounds.

***reasonably suspects*** means suspects on grounds that are reasonable in the circumstances.

***registered teacher*** means a person registered as a teacher under the *Education (Teacher Registration) Act 1988*.

***remaining allocation*** see section 5(3).

***school day*** means any day on which a school is operating as a school.

***school hours*** means the hours during which a school is open as a school.

***school in receipt of subsidy*** see section 134A(1).

***school of distance education*** means—

- (a) a State educational institution, other than a State school, offering distance education; or
- (b) a non-State school accredited or provisionally accredited under the *Education (Accreditation of Non-State Schools) Act 2001* to provide distance education.

***school year*** means all the days in a calendar year that are school days.

***secondary education*** means education offered in years numbered 8 to 12, both inclusive.

***secondary school*** means a school, not being a special school, providing secondary education.

***semester*** means semester 1 or semester 2.

***semester 1*** means the period notified in the Education Office gazette as semester 1.

***semester 2*** means the period notified in the Education Office gazette as semester 2.

***services*** means any performance of functions, doing of work, work done, or other activities, or whatever is necessary to provide assistance and advice.

***show cause notice*** see section 134D(2).

***show cause period*** see section 134D(2)(d).

***special education*** see section 3.

***special education developmental centre*** see section 3(5).

***special school*** means a school providing special education.

***State educational institution*** means any educational institution established pursuant to section 16, 17 or 18.

***State preschool centre*** means the part of a primary school's premises at which preschool education is provided by the State.

**State school** means a school at which primary, secondary or special education is provided by the State.

**student** means a person who is a student in accordance with subsection (3).

**suspend**, a student, means prohibit the student from attending a State educational institution for a stated number of school days.

**teacher** means a person who—

- (a) is a registered teacher; or
- (b) is a member of the educational staff of a State educational institution.
- (3) A person enrolled in a school or enrolled or registered in any other educational institution, or a person who, in the opinion of the Minister, is a student, is a student for the purposes of this Act.

### **3 Definitions relating to special education**

- (1) For this Act, a **person with a disability** is a person who, in the opinion of the Minister, is unlikely to attain the levels of development of which the person is capable unless the person receives special educational programs and services appropriate to the needs of the person.
- (2) **Special education** is the educational programs and services appropriate to the needs of persons with a disability.
- (3) Special education for persons with a disability is additional to, or otherwise different from, educational programs generally available to persons of that age who do not have a disability.
- (4) Also, special education may be provided to persons with a disability who are below compulsory school age.
- (5) A **special education developmental centre** is a facility (howsoever described) that provides special education to persons with a disability who are below compulsory school age.

#### **4 References to student when student is a minor or under other legal disability**

- (1) This section applies to a provision in part 8 or part 10, division 1 that states a student may appeal, make an application or submission, must be told about a decision or must be given a notice, and the relevant student is—
  - (a) under 18 years; or
  - (b) otherwise under a legal disability.
- (2) The person who may appeal or make the application or submission for the student, who must be told about the decision or to whom a notice must be given, is—
  - (a) if a parent has care and control of the student—the parent; or
  - (b) if another adult has care and control of the student—the adult.
- (3) In deciding who may appeal or make an application or submission, who must be told about a decision or to whom a notice must be given, the relevant State educational institution's records may be relied on to decide—
  - (a) if a parent, or another adult, has care and control of the student; and
  - (b) the current residential address of the parent or adult.

#### **5 Meaning of *basic allocation*, *remaining allocation* etc.**

- (1) ***Basic allocation*** is the allocation of 24 semesters of State education.
- (2) Some students do not have the basic allocation but another number of semesters of State education is allocated to the student by the principal of a State educational institution.
- (3) ***Remaining allocation***, for a student, is—
  - (a) if the student was a student with a basic allocation—the basic allocation less the number of semesters of State education provided to the student; or
  - (b) if the student did not have a basic allocation—the number of semesters allocated to the student less the



arrangement for any purposes which may seem directly or indirectly calculated to further education in any way whatsoever;

- (f) doing and suffering all such other acts, matters and things as bodies corporate may in law do and suffer.
- (2) All courts, judges and persons acting judicially shall take judicial notice of the seal of the corporation affixed to any document or writing whatsoever, and, until the contrary is proved, shall presume that such seal was duly so affixed.

## **6A Excluded matter for Corporations legislation**

The corporation is declared to be an excluded matter for the Corporations Act, section 5F,<sup>1</sup> in relation to the whole of the Corporations legislation.

## **7 Corporation of the Minister is statutory body**

- (1) Under the *Statutory Bodies Financial Arrangements Act 1982*, the corporation is a statutory body.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the corporation's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

## **8 Agreements on use of premises**

Notwithstanding anything contained in this Act or any other Act or law or rule of law to the contrary, the corporation is empowered and it is hereby declared always has had such power, to enter into an agreement or agreements, with a view to allowing the use of premises controlled by it (with or without payment of rental or fee) for such purposes as it considers are for the benefit of the community.

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<sup>1</sup> Corporations Act, section 5F (Corporations legislation does not apply to matters declared by State or Territory law to be an excluded matter)

## **Division 2                    General powers of Minister**

### **9            Power of Minister to be member of committees etc.**

- (1) The Minister, or a person authorised by the Minister for that purpose, may by prior invitation from or agreement with a committee, group or body—
  - (a) become and be a member of any committee, group or body, whether incorporated or not, that—
    - (i) has among its objects education or research or any other matter associated with the process of learning or teaching; or
    - (ii) in the opinion of the Minister, is engaged in the furtherance of education; and
  - (b) enter into an agreement with any such committee, group or body in respect of any of those objects.
- (2) It is hereby declared that the Minister or a person authorised by the Minister for that purpose who exercised any power specified in subsection (1) prior to the commencement of this section always did have the power in question and all acts, agreements and payments made or entered into for those purposes shall have full force and effect.
- (3) Where pursuant to subsection (1)(a) the Minister is a member of any committee, group or body, the Minister may be a member of the directorate or other governing body of that committee, group or body.
- (4) The Minister may incur any liability and may pay such contributions as membership of a committee, group or body, pursuant to subsection (1), entails.

### **10          Production and sale of educational materials etc.**

- (1) The Minister is authorised to produce and sell educational materials and sell services and to enter into an agreement with any person for those purposes and it is declared always has had those powers.
- (2) Nothing in subsection (1) shall be construed as conferring authority on the Minister to prescribe the use of any material



or service produced pursuant to this section other than in a State educational institution.

**11 Power of Minister to exploit commercially, certain facilities and resources**

The Minister is authorised to exploit commercially any facility or resource, including any study, research or knowledge, or the practical application thereof, developed by or within the department whether alone or in conjunction with any other person or body.

**12 Appointment of advisory committees**

The Minister may from time to time establish such committees as the Minister thinks fit to advise the Minister on any aspect of education.

**13 Delegation by Minister**

(1) The Minister may delegate to an appropriately qualified person any of the Minister's powers under this Act (other than powers under sections 9(1)(a)(ii) and 113.<sup>2</sup>

(2) In subsection (1)—

*appropriately qualified person* includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing*—

a person's classification level in the department

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<sup>2</sup> Sections 9 (Power of Minister to be member of committees etc.) and 113 (Dealing with submissions against removal)

## **Part 3 State educational institutions**

### **Division 1 State education**

#### **14 Provision of State education**

- (1) For every student attending a State educational institution established pursuant to section 16, 17 or 18(1)(c), there shall be provided an educational program in such subjects and of such duration as the Minister approves that—
  - (a) has regard to the age, ability, aptitude and development of the student concerned;
  - (b) is an integral element within the total range of educational services offered with the approval of the Minister first had and obtained;
  - (c) takes account and promotes continuity of the student's learning experiences;
  - (d) recognises and takes account of the nature of knowledge;
  - (e) has regard to whether enrolment is compulsory or non-compulsory.
- (2) The duration of the educational program must be based on the basic allocation to a student.

#### **15 Special education**

- (1) The Minister may provide, or contribute to, special education for persons with a disability who are—
  - (a) of compulsory school age; and
  - (b) enrolled in a non-State school or receiving instruction by another method approved by the Minister for the purpose.
- (2) If special education is provided, or contributed to, by the Minister to a person with a disability under subsection (1), the governing body or person in charge of the non-State school or

method of instruction must report to the Minister on the special education provided at the school or by the method.

- (3) The report must be made at the times, in the way and contain the particulars, required by the Minister.
- (4) Subject to the agreement of the parent of a person with a disability who is below compulsory school age, special education may be provided to the person in a way provided for in this section or section 14.

## **Division 2                    General provisions relating to State educational institutions**

### **16        Power to establish State schools**

The Minister may establish, maintain and carry on State schools that the Minister considers necessary.

### **17        Power to establish other ways of educational instruction**

The Minister may establish, maintain and carry on other ways of educational instruction that the Minister considers necessary, including, for example—

- (a) environmental education centres; and
- (b) outdoor education centres; and
- (c) centres for continuing secondary education.

### **18        Establishment of certain centres, student hostels, student residential colleges and other State educational institutions**

- (1) If the Minister considers it necessary or convenient for the purposes of this Act, the Minister may establish and conduct—
  - (a) centres for the support and development of teachers and other officers of the department; or
  - (b) student hostels or student residential colleges; or
  - (c) other State educational institutions.

- (2) The Minister may provide resources for any association, person or body, the objects of which are to provide for the support and development of teachers and other officers of the department.

## **19 Curriculum framework for State educational institutions**

- (1) The Minister may decide on a curriculum framework that is to apply to each educational institution established under section 16, 17 or 18(1)(c).

- (2) In this section—

*curriculum framework* means the framework under which the principal of the institution may decide the range of learning experiences to be offered to students enrolled at the institution.

## **19A Development and revision of 1–12 syllabuses and preschool guidelines**

- (1) The Minister may develop and revise 1–12 syllabuses and preschool guidelines.

- (2) In this section—

*1–12 syllabuses* means syllabuses for areas of learning in 1 or more of the years 1 to 12 years of schooling.

*preschool guidelines* means guidelines for the preschool year of schooling.

## **19B Implementation of syllabus, course or preschool guideline at a State educational institution**

- (1) In providing education in an area of learning, a relevant State educational institution may only implement—

- (a) an approved syllabus or accredited syllabus for the area of learning; or
- (b) for an institution that is a registered training organisation—an accredited course.

- (2) The Minister may direct the principal of a relevant State educational institution to ensure that the institution provides education in a stated area of learning.
- (3) The Minister may direct the principal of a relevant State educational institution that, in providing education in an area of learning, the institution must implement—
  - (a) a stated approved syllabus or accredited syllabus for the area of learning; or
  - (b) for an institution that is a registered training organisation—a stated accredited course.
- (4) The Minister may direct the principal of a relevant State educational institution that, in providing education in the preschool year of schooling, the institution must implement a stated approved preschool guideline or accredited preschool guideline.
- (5) In this section—

***accredited course*** means a course accredited under the *Vocational Education, Training and Employment Act 2000*.

***accredited preschool guideline*** means a preschool guideline accredited, by the authority under the *Education (Queensland Studies Authority) Act 2002*, for the preschool year of schooling.

***accredited syllabus***, for an area of learning, means a 1–12 syllabus, accredited by the authority under the *Education (Queensland Studies Authority) Act 2002*, for the area of learning.

***approved preschool guideline*** means a preschool guideline approved, by the authority under the *Education (Queensland Studies Authority) Act 2002*, for the preschool year of schooling.

***approved syllabus***, for an area of learning, means a 1–12 syllabus developed or revised, and approved, by the authority under the *Education (Queensland Studies Authority) Act 2002* for the area of learning.

**area of learning** includes—

- (a) a subject; and
- (b) a vocational education program.

**registered training organisation** means a registered training organisation under the *Vocational Education, Training and Employment Act 2000*.

**relevant State educational institution** means an educational institution established under section 16, 17 or 18(1)(c).

### **19C Direction by Minister about tests**

- (1) The Minister may direct the principal of an educational institution established under section 16, 17 or 18(1)(c), providing education to students in the year of schooling to which an approved test relates, to administer the test at the institution.
- (2) In this section—

**approved test** means a test, relating to a year of schooling, developed or revised by the authority under the *Education (Queensland Studies Authority) Act 2002*.

### **20 Use of State educational institutions**

- (1) Notwithstanding anything contained in this or any other Act or law that the land in question is reserved for a particular purpose, the Minister or an officer, or a class of officer so authorised by the Minister, may give permission (and it is hereby declared always has had such power) for the premises of a State educational institution to be used for any purpose (including a purpose not connected with education).
- (2) Permission may be given under subsection (1) on conditions the Minister or officer considers appropriate on reasonable grounds.
- (3) Any permission given under subsection (1) and any agreement entered into in fulfilment of any condition subject to which the permission is given shall be of full force and

effect notwithstanding anything to the contrary in any Act or law relating to unallocated State lands or lands reserved and set apart for any purpose.

## **21 Inspection of State educational institutions**

The Minister shall cause every State educational institution to be inspected at such intervals and in such manner as appear to the Minister to be appropriate.

## **22 Investigation of complaint**

The chief executive shall investigate expeditiously any complaint, which in the opinion of the chief executive is not a frivolous or vexatious complaint, in connection with the administration, management and operation of a State educational institution.

## **23 State educational institutions may be discontinued**

A State educational institution may be discontinued and the property, facilities and other assets used in connection therewith sold or otherwise disposed of.

## **24 Instruction to be free**

In State schools, the cost of instruction of children whose parents are domiciled in the State shall be defrayed by the State.

# **Division 3                      General provisions relating to State schools**

## **25 School records and reports**

- (1) The principal of a State school must comply with the chief executive's written directions to the principal about the following matters—
  - (a) the school records that must be kept;

- (b) the reports about the school that must be given to the chief executive;
  - (c) the times by which, and the way in which, the records must be kept or the reports given.
- (2) A person, whether the person is an officer of the department or not, who fails to preserve and aid in preserving secrecy with regard to all confidential matters concerning any student contained in school records and in the records of the department or who communicates any such matter to any person except—
- (a) to a person authorised by the chief executive to receive such information; or
  - (b) to a lawfully constituted court or tribunal; or
  - (c) as required to carry out the person's approved duties; or
  - (d) in compliance with a requirement under an Act;
- commits an offence against this Act.
- Maximum penalty—10 penalty units.
- (3) No act or thing done or omitted by any person for the purposes of this Act or done or omitted in good faith and without negligence by any person purporting to act for the purposes of this Act shall subject that person or any person acting in aid of that person to liability in respect thereof.

## **26 Religious instruction in school hours**

- (1) Any minister of a religious denomination or society, or an accredited representative of a religious denomination or society, which representative has been approved by the Minister for the purpose, shall be entitled during school hours to give to the students in attendance at a State school who are members of the denomination or society of which the person is a minister or the accredited representative religious instruction in accordance with regulations prescribed in that behalf during a period not exceeding 1 hour in each week on such day as the principal of that school appoints.



- (2) Instruction in accordance with a regulation may be given in State primary and special schools during school hours in selected Bible lessons.
- (3) A separate reading book shall be provided for such purpose.
- (4) Instruction of a kind mentioned in subsection (2) is not to include any teaching in the distinctive tenets or doctrines of any religious denomination, society or sect.
- (5) Notwithstanding anything in this section, any parent of a student in attendance at a State school may withdraw such student from all religious instruction in such school by notification in writing to the principal that the parent desires the student to be so withdrawn.
- (6) The provisions pursuant to this section shall not apply or extend to State preschool centres.

## **Part 4                      Good order and management of State educational institutions and non-State schools**

### **Division 1AA            Preliminary**

#### **26A    Definition for pt 4**

In this part—

*court* means—

- (a) for an application or appeal relating to a child—the Childrens Court; or
- (b) otherwise—a Magistrates Court.

## **Division 1                      Behaviour management plans**

### **27            Principal is responsible for behaviour management plans**

- (1) The principal of each State educational institution must ensure a process is put in place for developing a behaviour management plan for the institution.
- (2) The plan for an institution must—
  - (a) promote a supportive environment at the institution so all members of the institution's community may work together in developing acceptable standards of behaviour to create a caring, productive and safe environment for learning; and
  - (b) promote an effective teaching and learning environment at the institution, that allows positive aspirations, relationships and values to develop; and
  - (c) foster mutual respect among all individuals at the institution; and
  - (d) encourage all students attending the institution to take increasing responsibility for their own behaviour and the consequences of their actions.
- (3) The principal of an institution must take all reasonable steps to ensure the institution's behaviour management plan is implemented consistently, fairly and reasonably.
- (4) Also, the principal must ensure the plan is reviewed from time to time.

## **Division 2                      Suspension of students**

### **28            Grounds for suspension of student**

Each of the following is a ground for suspending a student from a State educational institution—

- (a) disobedience by the student;
- (b) misconduct of the student;

- (c) other conduct of the student that is prejudicial to the good order and management of the State educational institution or State educational institutions.

## **29 Suspension of student**

- (1) This section applies if the principal of a State educational institution is reasonably satisfied grounds exist to suspend a student from the institution.
- (2) The principal may suspend the student from the institution—
  - (a) for not more than 5 school days; or
  - (b) if the principal is satisfied the behaviour was so serious that the suspension should be for longer than 5 school days—for not more than 20 school days.
- (3) The principal must give the student a written notice stating—
  - (a) the student is suspended and the reason for the suspension; and
  - (b) the period of the suspension.
- (4) If the suspension is for more than 5 school days, the notice must also state—
  - (a) the student may make a submission against the suspension to the principal's supervisor; and
  - (b) the title, name and address of the principal's supervisor; and
  - (c) the way in which the submission may be made.

## **30 Placement of certain students in alternative education program**

If a student is suspended for more than 5 school days, the principal must coordinate arrangements for placing the student in an alternative education program that allows the student to continue with the student's education.

**31 Submissions against suspensions for more than 5 school days**

- (1) A student suspended for more than 5 school days may make a submission against the suspension.
- (2) The submission must be made to the principal's supervisor and state fully the grounds for the submission and the facts relied on.

**32 Dealing with submissions against suspensions**

- (1) If a submission is made to a principal's supervisor, the supervisor must promptly consider the decision and the submission and—
  - (a) affirm the decision; or
  - (b) vary the decision; or
  - (c) set aside the decision and make a new decision in substitution of the decision to suspend.
- (2) After the supervisor has decided to affirm, vary or set aside the principal's decision to suspend, the supervisor must—
  - (a) as soon as possible tell the student and the principal—
    - (i) about the supervisor's decision; and
    - (ii) if the supervisor's decision allows the student to return to school earlier than if the principal's decision had been affirmed—about when the student may return to school; and
  - (b) within 7 days after telling the student about the decision—give the student and the principal written notice of the decision and the reasons.

**Division 3 Exclusion of students by supervisor****33 Grounds for exclusion of student by supervisor**

The grounds for excluding a student from a State educational institution or State educational institutions are—

- (a) any of the following—
  - (i) disobedience by the student;
  - (ii) misconduct of the student;
  - (iii) other conduct of the student that is prejudicial to the good order and management of the State educational institution or State educational institutions; and
- (b) the student's disobedience, misconduct or other conduct is so serious that suspension of the student is inadequate to deal with the behaviour.

#### **34 Suspension pending dealing with recommendation for exclusion**

- (1) This section applies if the principal of a State educational institution is reasonably satisfied grounds exist to exclude a student from the institution or State educational institutions.
- (2) The principal may—
  - (a) recommend to the principal's supervisor that the student be excluded from the institution or stated State educational institutions; and
  - (b) suspend the student from the institution pending the supervisor's decision about the recommendation.
- (3) The principal must give the student a written notice (the *notice recommending exclusion*) stating—
  - (a) the principal has recommended to the principal's supervisor that the student be excluded from the institution and the reason for the recommendation; and
  - (b) the student is suspended pending the supervisor's decision about the recommendation; and
  - (c) the student may make a submission to the principal's supervisor against the suspension and recommendation for exclusion no later than 5 school days after the day the notice is given to the student or the longer period allowed by the supervisor under section 35(3); and

- (d) the title, name and address of the principal's supervisor;  
and
  - (e) the way in which the submission may be made.
- (4) The principal must promptly give a copy of the notice to the principal's supervisor.

### **35 Submissions against suspension and recommendation for exclusion**

- (1) A student given a notice recommending exclusion may make a submission against the suspension and recommendation for exclusion.
- (2) The submission must—
- (a) be made to the principal's supervisor no later than 5 school days after the day the notice is given to the student; and
  - (b) state fully the grounds for the submission and the facts relied on.
- (3) If, no later than 5 school days after the day the notice is given to the student, the supervisor is contacted by a person who may make a submission in relation to the notice asking for a longer period within which to make the submission, the supervisor may, by written notice, state a longer period allowed for submissions.

### **36 Exclusion of student by supervisor**

- (1) If—
- (a) a principal of a State educational institution, under section 34(2), recommended to the principal's supervisor that a student at the institution be excluded from the institution or State educational institutions for a period or permanently and gave the student a notice recommending exclusion; and
  - (b) 5 school days after the day the student was given the notice, or the longer period allowed by the supervisor under section 35(3), have expired and the supervisor—

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- (i) has not, before the expiry, received a submission against the suspension and recommendation for exclusion; or
- (ii) has received a submission before the expiry and considered the submission; and
- (c) the supervisor is reasonably satisfied grounds exist to exclude the student from the institution or State educational institutions;

the supervisor may, no later than 20 school days after the day the notice was given to the student, exclude the student (the ***excluded person***) from the institution or State educational institutions for a period or permanently.

- (2) Also, even though a principal of a State educational institution did not recommend to the principal's supervisor that a student at the institution be excluded from the institution or State educational institutions, the supervisor may exclude the student (also the ***excluded person***) from the institution or State educational institutions for a period or permanently, if the supervisor is reasonably satisfied grounds exist to exclude the student from the institution or State educational institutions.
- (3) A supervisor must give an excluded person a written notice stating—
  - (a) the person is excluded from the stated institution or institutions and the reason for the exclusion; and
  - (b) the period of the exclusion; and
  - (c) the person may make a submission to the chief executive against the exclusion; and
  - (d) the title, name and address of the chief executive; and
  - (e) the way in which the submission may be made.
- (4) Even if the supervisor may, under subsection (1), exclude the student from the institution or State educational institutions, the supervisor may decide not to exclude the student if the supervisor is reasonably satisfied the student may be allowed to return to the institution without compromising the good order and management of the institution.

- (5) If the supervisor decides not to exclude the student, the supervisor must—
  - (a) as soon as possible tell the student and the principal—
    - (i) about the decision; and
    - (ii) that the suspension has ended and the student may return to the institution; and
  - (b) within 7 days after telling the student about the decision—give written notice to the student, and the principal, about the supervisor’s decision and the reasons for the decision.
- (6) The supervisor’s power under this section to exclude the student from State educational institutions applies to an institution only if the supervisor is the supervisor of the principal of the institution.

### **Division 3A                    Exclusion of students by chief executive**

#### **36A    Chief executive’s power to exclude student**

- (1) The chief executive may exclude a student from a stated State educational institution, or all State educational institutions, if the chief executive is satisfied a ground exists for the exclusion.
- (2) The chief executive may act under this division whether or not the student has already been suspended or excluded under this part.

#### **36B    Grounds for exclusion of student by chief executive**

Despite section 33, the grounds for excluding a student under this division are—

- (a) the student’s attendance at the institution or institutions presents an unreasonable risk to the safety of other students or staff; or



- (b) the student has persistently engaged in gross misbehaviour that adversely affects the education of other students.

### **36C Suspension pending final decision about exclusion**

- (1) If the chief executive is reasonably satisfied a ground exists to exclude a student from an institution or institutions, and the student is not already suspended or excluded from the institution or institutions, the chief executive must immediately suspend the student from the institution or institutions pending a final decision about the exclusion.
- (2) The chief executive must give the student a notice stating—
  - (a) that the student is immediately suspended from the institution or institutions or, if the student is already suspended or excluded from the institution or institutions, that the suspension or exclusion continues until a final decision is made about the chief executive's proposed exclusion; and
  - (b) that the chief executive proposes to exclude the student from the institution or institutions; and
  - (c) the reason for the proposed exclusion; and
  - (d) if the proposed exclusion is not permanent—the period of the proposed exclusion; and
  - (e) that the student may make a submission to the chief executive against the proposed exclusion within 5 school days after the day the notice is given to the student or the longer period allowed by the chief executive; and
  - (f) the title, name and address of the chief executive; and
  - (g) the way in which the submission may be made.
- (3) The chief executive must immediately give copies of the notice to the principal of the institution with which the student is enrolled and the principal's supervisor.

**36D Submissions against proposed exclusion**

- (1) A student given a notice under section 36C may make a submission against the proposed exclusion in the way stated in the notice.
- (2) The submission must—
  - (a) be made to the chief executive no later than 5 school days after the day the notice is given to the student; and
  - (b) state fully the grounds for the submission and the facts relied on.
- (3) If, within 5 school days after the notice is given to the student, the student asks the chief executive for a longer period to make the submission, the chief executive may, by notice, state a longer period allowed for submissions.

**36E Exclusion of student by chief executive**

- (1) After considering any submissions received from a student under section 36D, the chief executive must decide whether to exclude the student and, if so, the period of the exclusion.
- (2) The chief executive may not decide to exclude the student for a longer period than the period of the proposed exclusion stated in the notice given to the student under section 36C.
- (3) If the chief executive is reasonably satisfied a ground exists to exclude the student from an institution or institutions, the chief executive must give the student (the *excluded person*) a notice stating—
  - (a) that the student is excluded from the stated institution or institutions; and
  - (b) the reason for the exclusion; and
  - (c) if the proposed exclusion is not permanent—the period of the exclusion; and
  - (d) that the student may make a submission asking the chief executive to review the exclusion; and
  - (e) the title, name and address of the chief executive; and
  - (f) the way in which the submission may be made.

- (4) If the chief executive decides not to exclude the student, the chief executive must give the student a notice stating—
  - (a) the decision; and
  - (b) that the suspension has ended and the student may return to the institution or institutions the student was attending before the suspension.
- (5) If the chief executive gives a notice under subsection (4), the suspension under section 36C, and any other suspension or exclusion of the student under this part, ends.
- (6) The chief executive must give notice of the decision about the exclusion to the principal of the institution with which the student is or was enrolled and the principal's supervisor.

## **Division 3B                    Review of decisions about exclusion**

### **37            Submissions against exclusions**

- (1) If an exclusion is made under division 3 or 3A, the excluded person may make a submission against the exclusion.
- (2) The submission must be made to the chief executive and state fully the grounds for the submission and the facts relied on.

### **38            Dealing with submissions against exclusions**

- (1) If a submission is made to the chief executive, the chief executive must, within 40 business days after receiving the submission, consider the decision and the submission and—
  - (a) affirm the decision; or
  - (b) vary the decision; or
  - (c) set aside the decision and make a new decision in substitution of the decision to exclude.
- (2) After the chief executive has decided to affirm, vary or set aside the decision, the chief executive must—
  - (a) as soon as possible tell the excluded person and the principal—

- (i) about the chief executive's decision; and
    - (ii) if the chief executive's decision allows the excluded person to return to school earlier than if the supervisor's decision or chief executive's original decision had been affirmed—about when the excluded person may return to school; and
  - (b) within 7 days after telling the excluded person about the decision—give written notice to the excluded person, and the relevant principal and supervisor, about the chief executive's decision and the reasons for the decision.
- (3) If the original decision was made under division 3A and was not made by the chief executive personally, the chief executive must ensure the submission is not dealt with under this section by—
- (a) the person who made the original decision; or
  - (b) a person in a less senior office than the person who made the original decision.

### **38A Periodic review of decision to exclude under div 3A**

- (1) This section applies while a person (the *student*) is excluded under division 3A.
- (2) Within 1 month before the end of each school year, the chief executive must give the student a notice stating—
  - (a) that the student may make a written submission to the chief executive about whether the exclusion should be revoked; and
  - (b) the title, name and address of the chief executive; and
  - (c) the way in which the submission may be made; and
  - (d) the time, not less than 14 days after the notice is given, by which the submission must be made.
- (3) At any time before deciding whether to revoke the exclusion under this section, the chief executive may extend the time for making a submission.

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- (4) The student may make a submission, in the way stated in the notice, within the time stated in the notice or any later time allowed under subsection (3).
- (5) After considering any submissions received from the student under subsection (4), the chief executive must—
  - (a) decide whether to revoke the exclusion; and
  - (b) give written notice of the decision and the reasons for the decision to—
    - (i) the student; and
    - (ii) the principal of the institution with which the student was enrolled immediately before the exclusion started; and
    - (iii) the principal's supervisor.
- (6) The chief executive must revoke the exclusion to the extent it applies to an institution if the chief executive is reasonably satisfied—
  - (a) the ground mentioned in section 36B(a) does not apply; and
  - (b) if the student was excluded on the ground mentioned in section 36B(b)—the gross misbehaviour is unlikely to continue if the student were allowed to attend the institution.
- (7) Otherwise, the chief executive must not revoke the exclusion.
- (8) In this section—

*revoke*, an exclusion, means—

  - (a) revoke the exclusion entirely; or
  - (b) amend the exclusion so it no longer applies to a particular institution.

## **Division 4                      Cancellation of enrolment of students above compulsory school age**

### **39                      Grounds for cancelling enrolment of student more than compulsory school age**

- (1) The grounds for cancelling the enrolment at a State educational institution of a student who is more than compulsory school age are—
  - (a) the student's persistently disruptive behaviour is adversely affecting the education of other students at the institution; or
  - (b) the student's behaviour amounts to a refusal to participate in the program of instruction provided at the institution.
- (2) The enrolment of a student of compulsory school age may not be cancelled under this division.

### **40                      Cancellation of student's enrolment**

- (1) This section applies if the principal of a State educational institution is reasonably satisfied grounds exist to cancel the enrolment at the institution of a student who is more than compulsory school age.
- (2) The principal may cancel the enrolment at the institution of the student (the *person under a cancellation*) for a period or permanently.
- (3) The principal must give the person under the cancellation a written notice stating—
  - (a) the person's enrolment at the institution is cancelled and the reason for the cancellation; and
  - (b) the period of the cancellation; and
  - (c) the person may make a submission against the cancellation to the principal's supervisor; and
  - (d) the title, name and address of the principal's supervisor; and

- (e) the way in which the submission may be made.
- (4) The principal must also give a copy of the notice to the principal's supervisor.

#### **41 Submissions against cancellation of enrolment**

- (1) The person under the cancellation may make a submission against the cancellation.
- (2) The submission must be made to the principal's supervisor and state fully the grounds for the submission and the facts relied on.

#### **42 Dealing with submissions against cancellations of enrolment**

- (1) If a submission is made to a principal's supervisor, the supervisor must promptly consider the decision and the submission and—
  - (a) affirm the decision; or
  - (b) vary the decision; or
  - (c) set aside the decision and make a new decision in substitution of the decision to cancel the student's enrolment.
- (2) After the supervisor has decided to affirm, vary or set aside the decision, the supervisor must—
  - (a) as soon as possible tell the person under the cancellation and the principal—
    - (i) about the supervisor's decision; and
    - (ii) if the supervisor's decision allows the person under the cancellation to return to school earlier than if the principal's decision had been affirmed—about when the person under the cancellation may return to school; and
  - (b) within 7 days after telling the person about the decision—give written notice to the person, and the principal who cancelled the person's enrolment, about the decision and the reasons for the decision.

## **Division 5**                      **Miscellaneous provisions about suspensions, exclusions and cancellations**

### **43**            **Definition for division**

In this division—

*student* means—

- (a) a student, including a suspended student; or
- (b) an excluded person; or
- (c) a person under a cancellation.

### **44**            **Copy of notices under this part to be given to parent etc.**

- (1) If a person is required, under this part, to give a notice to a student and the student is under 18 years, the person must promptly give a copy of the notice to—
  - (a) if a parent has care and control of the student—the parent; or
  - (b) if another adult has care and control of the student—the adult.
- (2) In deciding to whom a notice must be given under subsection (1), the person required to give the notice may rely on the relevant State educational institution's records about—
  - (a) if a parent, or another adult, has care and control of the student; and
  - (b) the current residential address of the parent or adult.

### **45**            **Submissions about suspensions, exclusions and cancellation**

If, under this part, a student may make a submission in relation to a suspension, suspension and recommendation for exclusion, exclusion or cancellation and the student is under 18 years, a submission may also be made by a parent, or an adult who has the care and control, of the student.



**46 When decisions take effect**

- (1) Notice of a decision under this part about a student must be given to the student under the section under which the decision is made.
- (2) A decision takes effect—
  - (a) if the student must be told about the decision and, under the decision, the student may return to school earlier than if the decision was to affirm another decision—on the day the student is told about the decision; or
  - (b) otherwise—on the day the student is given written notice of the decision or a later day stated in the notice.

**Division 6 Offences****47 Wilful disturbance**

- (1) A person must not wilfully disturb the good order or management of a State educational institution.

Maximum penalty—20 penalty units.

- (2) A person must not insult an officer of a State educational institution in the presence or hearing of a student of the institution, who is, at the time in question—
  - (a) in or about the institution; or
  - (b) assembled with others for educational purposes at or in any place.

Maximum penalty—20 penalty units.

- (3) A person must not be convicted of an offence against this section if the person was, at the time in question, a student at the State educational institution.
- (4) In subsection (2)—

*insult* includes abuse.

*officer of a State educational institution* includes a teacher, teacher on probation, teacher in training, staff member or person employed in any capacity at the institution.

**48 Trespass**

A person must not be on the premises of a State educational institution unless the person has lawful authority or a reasonable excuse for being on the premises.

Maximum penalty—20 penalty units.

**Division 7                      Directions and orders about  
conduct or movement at, or entry  
to, premises of State educational  
institutions****Subdivision 1              Preliminary****48A      Definitions for div 7**

In this division—

*employee*, of the department, means—

- (a) an employee of, or a contractor for, the department; or
- (b) an employee, or subcontractor, of a contractor mentioned in paragraph (a).

*exempt person*, for a State educational institution, means—

- (a) a student of the institution; or
- (b) an employee of the department engaged to perform work at the institution's premises.

**Subdivision 2              Powers relating to name and  
address****48B      Person may be required to state name and address**

- (1) If a State educational institution's principal proposes to give a direction under section 48C or 48E to a person at the institution's premises, the principal may require the person to state the person's name and residential address.

- (2) When making the requirement under subsection (1), the principal must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.
- (3) The principal may require the person to give evidence of the correctness of the person's stated name or residential address if the principal reasonably suspects the stated name or address is false.
- (4) A person must comply with a requirement made of the person under subsection (1) or (3), unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—10 penalty units.

### **Subdivision 3      Directions about conduct or movement at premises of State educational institutions**

#### **48C      Direction about conduct or movement**

- (1) A State educational institution's principal may give a person (the *directed person*) a written direction about the directed person's conduct or movement at the institution's premises for up to 30 days after the day on which the direction is given if the principal is reasonably satisfied it is necessary to give the direction—
  - (a) to ensure the safety or wellbeing of other persons lawfully at the premises; or
  - (b) to prevent or minimise damage to the premises or to property at the premises; or
  - (c) to maintain good order at the premises; or
  - (d) for the proper management of the institution.
- (2) A direction under subsection (1) may not be given to an exempt person for the institution.
- (3) The direction must state—
  - (a) the terms of the direction; and

- (b) the ground for the direction; and
  - (c) an outline of the facts and circumstances forming the basis for the ground; and
  - (d) the time the direction is to remain in force; and
  - (e) that the directed person may apply to have the direction reviewed by the principal's supervisor—
    - (i) within 7 days after the directed person is given the direction; or
    - (ii) if the direction is for less than 7 days—before the direction ends; and
  - (f) the title, name and address of the principal's supervisor; and
  - (g) how the directed person may apply to have the direction reviewed.
- (4) The direction has no effect until the principal gives it to the directed person.
- (5) The directed person must comply with the direction, unless the directed person has a reasonable excuse.

Maximum penalty for subsection (5)—20 penalty units.

#### **48D Review of direction under s 48C**

- (1) This section applies if a person is given a direction under section 48C by a State educational institution's principal.
- (2) The person may apply in writing to the principal's supervisor for a review of the direction, but only—
- (a) within 7 days after the person is given the direction; or
  - (b) if the direction is for less than 7 days—before the direction ends.
- (3) The application must—
- (a) state in detail the grounds on which the person wants the direction to be reviewed; and
  - (b) state the person's residential address.

- (4) After considering the grounds, the principal's supervisor must make a decision (the *review decision*) to—
  - (a) confirm the direction; or
  - (b) cancel the direction.
- (5) The principal's supervisor must immediately give the person and the institution's principal written notice of the review decision.
- (6) If the principal's supervisor does not give the notice within 5 days after the application is made, the review decision is taken to be that the direction is cancelled.

#### **Subdivision 4      Directions to leave and not re-enter premises of State educational institutions for 24 hours**

##### **48E      Direction to leave and not re-enter**

- (1) A State educational institution's principal may give a person (the *prohibited person*) a written direction requiring the prohibited person to immediately leave and not re-enter the institution's premises for 24 hours after the time of the direction if the principal reasonably suspects the prohibited person—
  - (a) has committed, or is about to commit, an offence at the premises; or
  - (b) has used, or is about to use, threatening, abusive or insulting language towards another person at the premises; or
  - (c) has engaged, or is about to engage, in threatening or violent behaviour towards another person at the premises; or
  - (d) has otherwise disrupted, or is about to disrupt, good order at the premises; or
  - (e) does not have a good and lawful reason to be at the premises.

- (2) A direction under subsection (1) may not be given to an exempt person for the institution.
- (3) The direction must state—
  - (a) the terms of the direction; and
  - (b) the ground for the direction; and
  - (c) an outline of the facts and circumstances forming the basis for the ground; and
  - (d) the time during which the prohibited person may not re-enter the premises.
- (4) The direction has no effect until the principal gives it to the prohibited person.
- (5) The prohibited person must comply with the direction, unless the prohibited person has a reasonable excuse.

Maximum penalty for subsection (5)—20 penalty units.

## **Subdivision 5      Prohibition from entering premises of State educational institutions for up to 60 days**

### **48F      Prohibition from entering premises**

- (1) The chief executive may give a person (the *prohibited person*) a written direction requiring the prohibited person not to enter the premises of a State educational institution for up to 60 days after the day on which the direction is given if the chief executive is reasonably satisfied that, unless the direction is given, the prohibited person is likely—
  - (a) to cause physical harm to, or apprehension or fear of physical harm in, another person when the other person is at the premises; or
  - (b) to damage the premises or property at the premises; or
  - (c) to disrupt the good order or management of the institution.
- (2) A direction under subsection (1) may not be given to an exempt person for the institution.

- (3) The direction must state—
  - (a) the terms of the direction; and
  - (b) the ground for the direction; and
  - (c) an outline of the facts and circumstances forming the basis for the ground; and
  - (d) the time the direction is to remain in force; and
  - (e) that the prohibited person may appeal against the direction, under section 146D, within 10 days; and
  - (f) how the prohibited person may appeal against the direction.
- (4) The direction has no effect until the chief executive gives it to the prohibited person.
- (5) The prohibited person must comply with the direction, unless the prohibited person has a reasonable excuse.

Maximum penalty for subsection (5)—30 penalty units.

## **Subdivision 6      Prohibition from entering premises of State educational institutions for more than 60 days, but not more than 1 year**

### **48G      Prohibition from entering premises**

- (1) The chief executive may apply to a court for an order prohibiting a person from entering the premises of a State educational institution for more than 60 days, but not more than 1 year.
- (2) An application under subsection (1) may not be made in relation to an exempt person for the institution.
- (3) The court may make the order if the court is satisfied, on the balance of probabilities, that unless the order is made the person is likely—
  - (a) to cause physical harm to, or apprehension or fear of physical harm in, another person when the other person is at the premises; or

- (b) to damage the premises or property at the premises; or
- (c) to disrupt the good order or management of the institution.

#### **48H Appeal to District Court**

An appeal lies to the District Court from a decision of a court under section 48G, but only on a question of law.

### **Division 8                      Directions and orders about conduct or movement at, or entry to, premises of non-State schools**

#### **Subdivision 1              Preliminary**

##### **48I              Definitions for div 8**

In this division—

*employee*, of a non-State school's governing body, means—

- (a) an employee of, or a contractor for, the governing body;  
or
- (b) an employee, or subcontractor, of a contractor mentioned in paragraph (a).

*exempt person*, for a non-State school, means—

- (a) a student of the school; or
- (b) an employee of the school's governing body engaged to perform work at the school's premises.

#### **Subdivision 2              Powers relating to name and address**

##### **48J              Person may be required to state name and address**

- (1) If a non-State school's principal proposes to give a direction under section 48L or 48N to a person at the institution's



premises, the principal may require the person to state the person's name and residential address.

- (2) When making the requirement under subsection (1), the principal must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.
- (3) The principal may require the person to give evidence of the correctness of the person's stated name or residential address if the principal reasonably suspects the stated name or address is false.
- (4) A person must comply with a requirement made of the person under subsection (1) or (3), unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—10 penalty units.

### **Subdivision 3      Directions about conduct or movement at premises of non-State schools**

#### **48K      Review body**

- (1) In this subdivision, *review body*, of a non-State school, means—
  - (a) if the school's governing body has nominated a person to conduct a review under section 48M—the nominee; or
  - (b) otherwise—the school's governing body.
- (2) For subsection (1)(a), a nominee of a non-State school's governing body must not be the school's principal.

#### **48L      Direction about conduct or movement**

- (1) A non-State school's principal may give a person (the *directed person*) a written direction about the directed person's conduct or movement at the school's premises for up to 30 days after the day on which the direction is given if the

principal is reasonably satisfied it is necessary to give the direction—

- (a) to ensure the safety or wellbeing of other persons lawfully at the premises; or
  - (b) to prevent or minimise damage to the premises or to property at the premises; or
  - (c) to maintain good order at the premises; or
  - (d) for the proper management of the school.
- (2) A direction under subsection (1) may not be given to an exempt person for the school.
- (3) The direction must state—
- (a) the terms of the direction; and
  - (b) the ground for the direction; and
  - (c) an outline of the facts and circumstances forming the basis for the ground; and
  - (d) the time the direction is to remain in force; and
  - (e) that the directed person may apply to have the direction reviewed by the school’s review body—
    - (i) within 7 days after the directed person is given the direction; or
    - (ii) if the direction is for less than 7 days—before the direction ends; and
  - (f) the name and address of the school’s review body; and
  - (g) how the directed person may apply to have the direction reviewed.
- (4) The direction has no effect until the principal gives it to the directed person.
- (5) The directed person must comply with the direction, unless the directed person has a reasonable excuse.

Maximum penalty for subsection (5)—20 penalty units.

**48M Review of direction under s 48L**

- (1) This section applies if a person is given a direction under section 48L by a non-State school's principal.
- (2) The person may apply in writing to the school's review body for a review of the direction, but only—
  - (a) within 7 days after the person is given the direction; or
  - (b) if the direction is for less than 7 days—before the direction ends.
- (3) The application must—
  - (a) state in detail the grounds on which the person wants the direction to be reviewed; and
  - (b) state the person's residential address.
- (4) After considering the grounds, the review body must make a decision (the *review decision*) to—
  - (a) confirm the direction; or
  - (b) cancel the direction.
- (5) The review body must immediately give the person and the school's principal written notice of the review decision.
- (6) If the review body does not give the notice within 5 days after the application is made, the review decision is taken to be that the direction is cancelled.

**Subdivision 4 Directions to leave and not re-enter premises of non-State schools for 24 hours****48N Direction to leave and not re-enter**

- (1) A non-State school's principal may give a person (the *prohibited person*) a written direction requiring the prohibited person to immediately leave and not re-enter the school's premises for 24 hours after the time of the direction if the principal reasonably suspects the prohibited person—
  - (a) has committed, or is about to commit, an offence at the premises; or

- (b) has used, or is about to use, threatening, abusive or insulting language towards another person at the premises; or
  - (c) has engaged, or is about to engage, in threatening or violent behaviour towards another person at the premises; or
  - (d) has otherwise disrupted, or is about to disrupt, good order at the premises; or
  - (e) does not have a good and lawful reason to be at the premises.
- (2) A direction under subsection (1) may not be given to an exempt person for the school.
- (3) The direction must state—
- (a) the terms of the direction; and
  - (b) the ground for the direction; and
  - (c) an outline of the facts and circumstances forming the basis for the ground; and
  - (d) the time during which the prohibited person may not re-enter the premises.
- (4) The direction has no effect until the principal gives it to the prohibited person.
- (5) The prohibited person must comply with the direction, unless the prohibited person has a reasonable excuse.

Maximum penalty for subsection (5)—20 penalty units.

## **Subdivision 5      Prohibition from entering premises of non-State schools for up to 60 days**

### **480      Prohibition from entering premises**

- (1) A non-State school's governing body, or its nominee for this subsection, may give a person (the *prohibited person*) a written direction requiring the prohibited person not to enter the school's premises for up to 60 days after the day on which

the direction is given if the governing body or nominee is reasonably satisfied that, unless the direction is given, the prohibited person is likely—

- (a) to cause physical harm to, or apprehension or fear of physical harm in, another person when the other person is at the premises; or
  - (b) to damage the premises or property at the premises; or
  - (c) to disrupt the good order or management of the school.
- (2) A direction under subsection (1) may not be given to an exempt person for the school.
- (3) The direction must state—
- (a) the terms of the direction; and
  - (b) the ground for the direction; and
  - (c) an outline of the facts and circumstances forming the basis for the ground; and
  - (d) the time the direction is to remain in force; and
  - (e) that the prohibited person may appeal against the direction, under section 146D, within 10 days; and
  - (f) how the prohibited person may appeal against the direction.
- (4) The direction has no effect until the governing body or nominee gives it to the prohibited person.
- (5) The prohibited person must comply with the direction, unless the prohibited person has a reasonable excuse.

Maximum penalty—30 penalty units.

- (6) For subsection (1), a nominee of a non-State school's governing body must not be the school's principal.

## **Subdivision 6      Prohibition from entering premises of non-State schools for more than 60 days, but not more than 1 year**

### **48P      Prohibition from entering premises**

- (1) A non-State school's governing body, or its nominee for this subsection, may apply to a court for an order prohibiting a person (the *prohibited person*) from entering the school's premises for more than 60 days, but not more than 1 year.
- (2) An application under subsection (1) may not be made in relation to an exempt person for the school.
- (3) The court may make the order if the court is satisfied, on the balance of probabilities, that unless the order is made the prohibited person is likely—
  - (a) to cause physical harm to, or apprehension or fear of physical harm in, another person when the other person is at the premises; or
  - (b) to damage the premises or property at the premises; or
  - (c) to disrupt the good order or management of the school.
- (4) For subsection (1), a nominee of a non-State school's governing body must not be the school's principal.

### **48Q      Appeal to District Court**

An appeal lies to the District Court from a decision of a court under section 48P, but only on a question of law.

**Division 9                      Prohibition from entering premises  
of all State educational institutions  
and non-State schools for up to  
1 year**

**48R      Prohibition from entering premises of all State  
educational institutions and non-State schools**

- (1) The chief executive may apply to a court for an order prohibiting a person from entering the premises of all State educational institutions and non-State schools for up to 1 year.
- (2) An application under subsection (1) may not be made in relation to a person who is a student of a State educational institution or non-State school.
- (3) The court may make the order if the court is satisfied, on the balance of probabilities, that the person poses an unacceptable risk to the safety or wellbeing of members of school communities in general.

**48S      Prohibition from entering premises of all State  
educational institutions**

- (1) The chief executive may apply to a court for an order prohibiting a person from entering the premises of all State educational institutions for up to 1 year.
- (2) An application under subsection (1) may not be made in relation to a person who is a student of a State educational institution.
- (3) The court may make the order if the court is satisfied, on the balance of probabilities, that the person poses an unacceptable risk to the safety or wellbeing of members of school communities of the institutions in general.

**48T      Appeal to District Court**

An appeal lies to the District Court from a decision of a court under section 48R or 48S, but only on a question of law.

## **Division 10                      Miscellaneous**

### **48U    Non-application of divs 7 and 8 to particular persons**

Divisions 7 and 8<sup>3</sup> do not apply to a person in relation to the exercise by the person of the person's powers under an Act at the premises of a State educational institution or non-State school.

### **48V    Notification of application or direction**

- (1) Subsection (2) applies if an application is made under section 48G, 48P, 48R or 48S in relation to a child.
- (2) The applicant must, as soon as practicable after making the application, give a parent of the child written notice of the application, unless a parent can not be found after reasonable inquiry.
- (3) Subsection (4) applies if a direction is given under section 48F or 48O to a child.
- (4) The person who gives the direction must, as soon as practicable after giving the direction, give a parent of the child written notice of the direction, unless a parent can not be found after reasonable inquiry.
- (5) In this section—  
*parent*, of a child, includes someone who is apparently a parent of the child.

### **48W    Annual report of department to include report on various matters**

- (1) In the department's annual report for a financial year under the *Financial Administration and Audit Act 1977*, the chief executive must include details of—

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3 Divisions 7 (Directions and orders about conduct or movement at, or entry to, premises of State educational institutions) and 8 (Directions and orders about conduct or movement at, or entry to, premises of non-State schools)



- (a) the number of directions given during the financial year under section 48C, including the number given to children; and
  - (b) the number of directions given during the financial year under section 48E, including the number given to children; and
  - (c) the number of directions given during the financial year under section 48F, including the number given to children; and
  - (d) the number of orders made during the financial year under section 48G, including the number made in relation to children; and
  - (e) the number of orders made during the financial year under section 48R, including the number made in relation to children; and
  - (f) the number of orders made during the financial year under section 48S, including the number made in relation to children; and
  - (g) the number of applications made during the financial year under section 48D, including the number made by children; and
  - (h) the number of directions confirmed during the financial year under section 48D, including the number of the directions that had been given to children; and
  - (i) the number of directions cancelled during the financial year under section 48D, including the number of the directions that had been given to children.<sup>4</sup>
- (2) Also, in the annual report, the chief executive must include the information obtained by the Minister under section 48X for the financial year.

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4 Sections 48C (Direction about conduct or movement), 48D (Review of direction under s 48C), 48E (Direction to leave and not re-enter), 48F (Prohibition from entering premises), 48G (Prohibition from entering premises), 48R (Prohibition from entering premises of all State educational institutions and non-State schools) and 48S (Prohibition from entering premises of all State educational institutions)

**48X Non-state school's governing body to give particular information to Minister**

A non-State school's governing body must, within 2 months after the end of a financial year, give the following information to the Minister—

- (a) the number of directions, relating to the school, given during the financial year under section 48L, including the number given to children;
- (b) the number of directions, relating to the school, given during the financial year under section 48N, including the number given to children;
- (c) the number of directions, relating to the school, given during the financial year under section 48O, including the number given to children;
- (d) the number of orders, relating to the school, made during the financial year under section 48P, including the number made in relation to children;
- (e) the number of applications, relating to the school, made during the financial year under section 48M, including the number made by children;
- (f) the number of directions, relating to the school, confirmed during the financial year under section 48M, including the number of the directions that had been given to children;
- (g) the number of directions, relating to the school, cancelled during the financial year under section 48M, including the number of the directions that had been given to children.<sup>5</sup>

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<sup>5</sup> Sections 48L (Direction about conduct or movement), 48M (Review of direction under s 48L), 48N (Direction to leave and not re-enter), 48O (Prohibition from entering premises) and 48P (Prohibition from entering premises)

## **Part 5                      School councils**

### **Division 1                      Object of part**

#### **49                      Object**

- (1) The object of this part is to improve student learning outcomes by providing for the establishment and operation of school councils.
- (2) A school council has specified functions for guiding the broad strategic direction of the school for which it is established.

### **Division 2                      Establishment, name, functions and other matters**

#### **50                      Establishment**

- (1) The chief executive may, by notice in the Education Office gazette, establish a school council for a State school.<sup>6</sup>
- (2) The school council may be established with functions only about the school for which the council is established.

#### **51                      Name**

The school council established for a school is named as follows—

- (a) if the name of the school ends with ‘school’—the council is called ‘. . . (*insert name of school*) Council’;
- (b) otherwise—the council is called ‘. . . (*insert name of school*) School Council’.

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<sup>6</sup> Section 72 (Initial constitution) provides that the chief executive must not establish a school council until the chief executive has approved its constitution.

**52 Functions**

- (1) A school council has the following functions for the school for which it is established—
  - (a) monitoring the school's strategic direction;
  - (b) approving—
    - (i) plans and school policies of a strategic nature;
    - (ii) other documents affecting strategic matters, including the annual estimate of revenue and expenditure for the school;
  - (c) monitoring the implementation of the plans, school policies and other documents, mentioned in paragraph (b);
  - (d) advising the principal about strategic matters.
- (2) The council must carry out its functions in a way that achieves the best learning outcomes for the school's students.
- (3) Despite subsections (1) and (2), a school council may not—
  - (a) interfere with the principal's management of the day to day operations of the school and its curriculum; or
  - (b) make operational decisions about the use of teaching or learning resources in the school; or
  - (c) make decisions about the individual teaching style used, or to be used, at the school; or
  - (d) make a decision that is contrary to law or a written policy of the department.

**53 School councils do not have certain powers**

A school council may not—

- (a) have control of funds; or
- (b) enter into contracts; or
- (c) acquire, hold, dispose of or deal with, property; or
- (d) sue or be sued.

## **Division 3                      Membership**

### **54            Membership of school councils**

- (1) A school council consists of all of the following members—
  - (a) the school's principal;
  - (b) if there is an association formed for the school for which the council is established—the president of the association;
  - (c) the elected parent members;
  - (d) the elected staff members;
  - (e) if the school for which the council is established—
    - (i) does not offer secondary education—any year 7 student who is coopted onto the council as a coopted student member under the council's constitution; or
    - (ii) offers secondary education—the elected student members;
  - (f) the appointed members.
- (2) All of the following provisions apply to the membership of a school council—
  - (a) the number of members of a council must be at least 6 and not more than 15;
  - (b) the number of elected parent members and elected staff members must be equal;
  - (c) there must not be more than 2 elected student members and 2 appointed members;
  - (d) there must be at least 1 elected parent member and 1 elected staff member;
  - (e) if the school provides secondary education for year 10, 11 or 12—there must be at least 1 elected student member.
- (3) The president of an association may, under the association's constitution, appoint another association member as an alternative association member to attend council meetings in

the place of the president when the president is unable to attend the meetings.

- (4) An alternative association member attending a meeting has the same rights and duties as the president.
- (5) An official member is not eligible to be an elected or appointed member, and an elected or appointed member is not eligible for appointment by an association's president as an alternative association member.
- (6) The elected parent members of a school's council must be elected—
  - (a) if there is an association formed for the school and the association's constitution provides for the election of parent members to the school's council—under the association's constitution; or
  - (b) otherwise—by a secret ballot under the council's constitution.
- (7) The elected staff members of a school's council must be elected by a secret ballot, held under the council's constitution, of all the persons who are—
  - (a) employed by a department and assigned to the school; or
  - (b) otherwise employed full-time or part-time at the school.
- (8) A coopted student member of a school council—
  - (a) does not have the power to vote on a matter before the council despite section 64(3), (4) and (5); and
  - (b) may not be elected as the chairperson under section 55 or chosen to preside at a meeting under section 64(2).
- (9) An elected student member must be a student in year 10, 11 or 12 at the school, elected by a poll in which only those students at the school in year 10, 11 or 12 may vote.
- (10) A poll mentioned in subsection (9) may take place at the same time as, or be combined with, other elections at the school involving students, including, for example, the election of the school's captain and vice captain.
- (11) Subsection (12) applies if, at the time of closure of nominations for an elected member under the constitution of the relevant association or council, the number of nominations

for elected members is not more than the number required to be elected.

- (12) The person who, under the relevant constitution is responsible for conducting the election for the elected members, must declare the person or persons who are properly nominated under the constitution to have been elected.

- (13) In this section—

***appointed member***, of a school council, means a member, appointed under the council's constitution, by the council.

***coopted student member***, of a school council, means a person who is a year 7 student at the school for which the council is established and is coopted as a member of the council under the council's constitution.

***elected parent member***, of a school council, means a person who is a parent of a child attending the school for which the council is established and is elected as a member of the council under subsection (6).

***elected staff member***, of a school council, means a person who is a member of the staff of the school for which the council is established and is elected as a member of the council under subsection (7).

***elected student member***, of a school council, means a person who is a student at the school for which the council is established and is elected as a member of the council under subsection (9).

## 55 Chairperson

- (1) A school council must elect a member as chairperson.
- (2) The principal may not be elected as chairperson.
- (3) Despite section 54(4), if an alternative association member is attending a council meeting in place of the president of an association who is also the chairperson of the council, the alternative association member may not preside at the

meeting, unless the alternative association member is chosen to preside under section 64(2).<sup>7</sup>

- (4) The chairperson holds office for the term decided by the council (the *chairperson's term*) unless the person's term of office as a member of the council ends sooner than the chairperson's term.

## **56 Terms of office for elected and appointed members**

- (1) Each elected or appointed member holds office for the term, not longer than 2 years, provided in the council's constitution.
- (2) However, subject to section 54(2), the council's constitution may provide for up to one-half of the first elected members (or, if one-half of the number of the first elected members is not a whole number, the next highest whole number) to hold office for a term of not longer than 3 years.
- (3) A member elected or appointed to fill a casual vacancy in the office of an elected or appointed member—
- (a) must be the same type of member under section 54 as the vacating member; and
  - (b) holds office only for the balance of the vacating member's term.
- (4) The office of an elected or appointed member becomes vacant if the member—
- (a) dies; or
  - (b) resigns by signed notice—
    - (i) for the chairperson—given to the principal's supervisor; or
    - (ii) for another member—given to the chairperson; or
  - (c) is absent from 3 consecutive meetings of the council, of which the member has been given notice under the

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<sup>7</sup> Under section 54(4), an alternative association member has the same rights and duties as the president while attending in the president's place. Under section 64(2), if the chairperson is absent, another member chosen by the members present is to preside.



- council's constitution, without the council's leave and without reasonable excuse; or
- (d) stops being eligible, under this Act or the council's constitution, for election or appointment to the office.
- (5) A member's resignation takes effect on the day the notice of resignation is given to the principal's supervisor or chairperson or a later day stated in the notice.
- (6) If the office of an elected or appointed member of a school council is vacant and, because of the vacancy, the membership does not comply with section 54(2), the council is taken to be validly constituted until the earlier of the following happens—
- (a) the day the vacancy is filled;
- (b) the expiry of 3 months after the day the vacancy arose.

## **57 Ineligibility on conviction of indictable offence**

- (1) A person is ineligible to be an elected parent member, elected staff member or appointed member of a school council if the person has been convicted of an indictable offence, unless the Minister gives an approval under this section.
- (2) If the Minister considers it would be reasonable, having regard to the circumstances of the indictable offence of which a person has been convicted, the Minister may—
- (a) if the person was a member when convicted—give written notice to the chairperson and the person that the person is restored as a member, and may be subsequently re-elected or reappointed, despite the conviction; or
- (b) otherwise—give written approval for the person to be elected or appointed as a member despite the conviction.
- (3) On the day the chairperson receives a notice under subsection (2)(a)—
- (a) the person is restored as a member; and
- (b) if another person has been elected or appointed to fill the vacancy, the other person's appointment ends.

(4) If a person is restored as a member under subsection (3), the person's term of office as a member ends at the time it would have ended if the person had not been convicted of the offence.

(5) In this section—

*convicted*, of an offence, means the person has been found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction was recorded.

## **58 Appointment not affected by other laws restricting employment**

If another Act prohibits or regulates a person's employment, or other engagement in activities, outside of a stated office or position, the Act does not prevent the person from—

- (a) being a member of a school council; or
- (b) carrying out the person's functions as a member of the council; or
- (c) being paid for expenses incurred in attending council meetings.

## **Division 4 Constitution**

### **59 Constitution for school council**

- (1) Each school council must have a constitution.<sup>8</sup>
- (2) The council's constitution must provide for the following matters—
  - (a) membership of the council, including—
    - (i) eligibility for election as, or to vote for, an elected member; and
    - (ii) eligibility for appointment as an appointed member; and

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<sup>8</sup> See section 72 (Initial constitution) about the preparation of the constitution applying to a school council on its establishment.

*Education (General Provisions) Act 1989*

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- (iii) procedures for election or appointment; and
  - (iv) when an elected or appointed member's term of office starts and ends; and
  - (v) if there is an association formed for the school for which the council is established—the way in which the president must give notice to the chairperson about the appointment of an alternative association member;
- (b) election of, and other matters relating to, the chairperson;
  - (c) conduct of council business;
  - (d) the way the council carries out its functions.
- (3) The constitution may also provide for other matters the council considers appropriate for inclusion in it.
- (4) However, the provisions of a council's constitution about membership of the council—
- (a) must comply with section 54;<sup>9</sup> and
  - (b) if there is an association formed for the school for which the council is established—are subject to the provisions of the association's constitution about the election of an elected parent member.
- (5) A council may prepare and adopt an amendment of its constitution.
- (6) In preparing a proposed amendment, a council must have regard to relevant provisions of the model constitutions.
- (7) An amendment has no effect until it is approved by the chief executive.
- (8) The chief executive must not approve an amendment unless the chief executive is satisfied—
- (a) written notice of the proposed amendment was given at least 30 days before the meeting of the council that considered the amendment to the following—

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9 Section 54 (Membership of school councils) provides for the constitution of school councils, including membership.

- (i) the council members;
  - (ii) if there is an association formed for the school—the association;
  - (iii) the school’s staff (including, for example, by displaying the proposed amendment in a staff room);
  - (iv) the school’s students (including, for example, by publishing it in the school’s newsletter); and
- (b) the amendment was adopted by at least the number of members constituting a quorum for the school council;<sup>10</sup> and
  - (c) the amended constitution is consistent with this Act and otherwise lawful.
- (9) In deciding whether to approve an amendment, the chief executive must also have regard to the following matters concerning the amended constitution—
- (a) whether it provides for a membership that—
    - (i) allows sufficient representation by parents, staff, students and other members of the school community; and
    - (ii) takes into account the profile of the school community;
  - (b) whether it provides for the council to carry out its functions in an effective and fair way;
  - (c) whether its provisions are otherwise sufficient, clear and appropriate.

## **60 Model constitutions for school councils**

- (1) The chief executive may prepare model constitutions for school councils.
- (2) Each school council must have regard to the model constitutions when preparing and adopting amendments of its constitution.

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<sup>10</sup> See section 63 (Quorum) to calculate the quorum for a particular school council.

## **Division 5                      Council business**

### **61            Conduct of business**

- (1) Subject to its constitution, a school council may conduct its business, including its meetings, in the way it considers appropriate.
- (2) However, a council may only make decisions about how it will carry out its functions if it does so at a council meeting at which a quorum is present.
- (3) This section is subject to this Act, including, for example, section 64.

### **62            Time and place of meetings**

- (1) School council meetings are to be held at the times and places the council decides.
- (2) However, the council must meet at least twice in each semester.
- (3) The chairperson—
  - (a) may call a meeting at any time; and
  - (b) must call a meeting if asked, in writing, to do so by the Minister, the chief executive or at least the number of members constituting a quorum for the school council.

### **63            Quorum**

A quorum for a school council is the number equal to two-thirds of the number of its members or, if two-thirds is not a whole number, the next highest whole number.

### **64            Conduct of meetings**

- (1) The chairperson is to preside at all school council meetings at which the chairperson is present.
- (2) If the chairperson is absent, another member chosen by the members present is to preside.

- (3) A question at a meeting (other than a question about an amendment of the council's constitution) is decided by a majority of the votes of the members present.
- (4) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding has a casting vote.
- (5) A member present at the meeting who abstains from voting is taken to have voted for the negative.
- (6) The council may hold meetings, or permit members to take part in meetings, by telephone, video link, or another form of communication that allows reasonably contemporaneous and continuous communication between the members taking part in the meeting.
- (7) A member who takes part in a meeting under a permission under subsection (6) is taken to be present at the meeting.

## **65 Attendance by proxy**

- (1) A member may not attend a meeting of a school council by proxy.
- (2) However, the principal may attend up to 2 meetings in each year by proxy.
- (3) In this section—  
*proxy* does not include the appointment by the president of an association of an alternative association member.

## **66 Disclosure of interests by council members**

- (1) This section applies to a member of a school council (the *interested member*) if—
  - (a) the interested member has a direct or indirect financial interest in an issue being considered, or about to be considered, by the council; and
  - (b) the interest could conflict with the proper performance of the member's duties in relation to the consideration of the issue.

- (2) As soon as practicable after the relevant facts come to the interested member's knowledge, the member must disclose the nature of the interest to a meeting of the council.
- (3) Unless the council otherwise directs, the interested member must not—
  - (a) be present when the council considers the issue; or
  - (b) take part in a decision of the council about the issue.
- (4) The interested member must not be present when the council is considering whether to give a direction under subsection (3).
- (5) If there is another member who must, under subsection (2), also disclose an interest in the issue, the other member must not—
  - (a) be present when the council is considering whether to give a direction under subsection (3); or
  - (b) take part in making the decision about giving the direction.
- (6) If, because of this section, a member is not present at a council meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3), but there would be a quorum if the member were present, the remaining members present are a quorum of the council for considering or deciding the issue at the meeting.
- (7) A disclosure under subsection (2) must be recorded in the council's minutes.

## **Division 6                      Application of other laws**

### **67            Criminal Law (Rehabilitation of Offenders) Act 1986**

- (1) For the application of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 9A, to the office of an elected or appointed member of a school council, a person is taken to apply for the office if the person—

- (a) consents to be appointed as an appointed member (whether or not the council has decided to appoint the person); or
  - (b) stands for election as an elected member.
- (2) Subsection (1) does not apply to an elected student member.

## **68 Public Records Act 2002**

A school council is a public authority under the *Public Records Act 2002*.

## **69 Freedom of Information Act 1992**

- (1) For the application of the *Freedom of Information Act 1992*, each school council is taken to form part of the department.<sup>11</sup>
- (2) To remove doubt, it is declared that the *Freedom of Information Act 1992*, part 2, does not apply to a school council.

## **70 Public Sector Ethics Act 1994**

- (1) This section concerns the application of the *Public Sector Ethics Act 1994* (the *Act*) to school councils.
- (2) For the application of the Act—
  - (a) each school council is a public sector entity; and
  - (b) each member of a school council is a public official of the entity; and
  - (c) the chief executive is the chief executive officer of the entity.
- (3) For section 15 of the Act, the chief executive must ensure that a code of conduct is prepared that, after approval under section 17 of the Act, applies to each school council.
- (4) For section 20(4) of the Act, a reference to the entity's head office or regional office is a reference to the department's head office or other departmental office.

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<sup>11</sup> See the *Freedom of Information Act 1992*, section 8(2).



- (5) For section 23 of the Act, a reference to the entity's annual report is a reference to the department's annual report.

## **Division 7                      Starting up**

### **71            Purpose and application**

- (1) This division concerns the establishment and initial operation of a school council.
- (2) This division prevails to the extent of any inconsistency with another provision of this part.

### **72            Initial constitution**

- (1) The principal of a State school must prepare a draft constitution for a proposed school council for the State school.
- (2) Division 4<sup>12</sup> applies to the preparation as if a reference to a school council amending its constitution were a reference to the principal preparing the proposed council's draft constitution.
- (3) In preparing the draft constitution, the principal—
- (a) must consult with the school's parents, staff and students; and
  - (b) may consult with other appropriate entities.
- (4) If there is an association formed for the school, the president of the association must, under the association's constitution, call a special meeting of the association (the ***association meeting***) for approving the draft constitution.
- (5) The principal must call the following meetings for approving the draft constitution—
- (a) if there is no association formed for the school—a meeting of the school's parents (the ***parent meeting***);
  - (b) a meeting of the school's staff (the ***staff meeting***).

- (6) The chief executive may not establish a school council for a school unless the association or parents meeting, and the staff meeting, were called and the draft constitution was approved as follows—
- (a) if there is an association formed for the school—by secret ballot by a majority of the association’s members attending the association meeting;
  - (b) if there is no association formed for the school—by secret ballot by a majority of the parents attending the parent meeting;
  - (c) by secret ballot by a majority of the staff attending the staff meeting.
- (7) However, the chief executive may establish a school council for a school even though the draft constitution was not approved as required under subsection (6), if the chief executive is satisfied that—
- (a) the association, parents or staff, not approving the draft constitution, held at least 3 association meetings, parent meetings or staff meetings, to discuss the draft constitution within 3 months of the principal preparing the draft; and
  - (b) the chief executive has regard to the concerns of the association, parents or staff raised at the meetings at which the draft constitution was not approved.
- (8) The approved constitution applies to the council on its establishment.

### **73 Initial membership**

- (1) On establishment, the school council consists only of the official members.
- (2) However, a school council consisting of the official members may only perform the functions necessary for the election of the council’s elected members.

**74 First elected and appointed members**

- (1) As soon as practicable after the school council is established, the official members must, under the council's constitution, organise the election of the council's elected members.
- (2) After the election, the council as constituted by the official and elected members may appoint the appointed members.

**Division 8 Dissolution****75 Dissolution of school council**

- (1) A school council is dissolved—
  - (a) if the school for which it was established is discontinued; or
  - (b) in any other circumstances prescribed under a regulation.
- (2) On dissolution, the members of the council immediately before the dissolution go out of office.

**76 Records**

- (1) As soon as practicable after the dissolution of a school council, the principal must ensure the council's records are given to the chief executive.
- (2) In this section—

*records*, of a council, includes all documents held by the council that it has created or acquired in the course of carrying out its functions.

**Division 9 Miscellaneous****77 School councils not to establish committees or subcommittees**

A school council must not establish a committee or subcommittee.

**78 Expense of attending meetings**

Each member of a school council is entitled to be paid the amounts decided by the chief executive for the expenses incurred in attending council meetings.

**79 Minister's power to give directions in the public interest**

- (1) The Minister may give a school council a written direction if the Minister is satisfied it is necessary to give the direction in the public interest.
- (2) Without limiting subsection (1), a direction may require the council to comply with—
  - (a) a policy, standard or other instrument of a public sector unit; or
  - (b) another document, including, for example, another policy, standard or instrument.
- (3) The council must comply with the direction.
- (4) A direction to a school council must be addressed to its chairperson and may be sent by post, facsimile or similar facility to the address of the school.
- (5) The Minister must give a copy of each direction to the chief executive.
- (6) The department's annual report for a year must include copies of all directions given under this section during the year.

**80 Protection from liability**

- (1) A member of a school council does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to a member, the liability attaches instead to the State.

## **Part 6                      Parents and citizens associations**

### **Division 1                Formation, objectives etc. of an association**

#### **81            Formation of parents and citizens association**

- (1) A parents and citizens association may be formed for any State school as and in the manner prescribed in the regulations.
- (2) Parents of students attending a State school and any other persons of or above the age of 18 years interested in the welfare of a State school are eligible to be members of such an association for that State school.
- (3) The principal of a State school shall ex officio be a member of an association formed for such State school.
- (4) A member of the staff of a State school is eligible—
  - (a) for membership of an association formed for such State school; and
  - (b) in all cases, other than in the case of the principal, to hold office in respect of such association.

#### **82            Formation of interim parents and citizens association**

- (1) An interim parents and citizens association may be formed as and in the manner prescribed in the regulations for any State school within 2 years of the school's proposed date of commencement.
- (2) Parents of students who might attend the State school and any other persons of or above the age of 18 years interested in the welfare of the proposed State school are eligible to be members of an interim association for that proposed State school.
- (3) An interim association shall, unless otherwise provided in the regulations, be subject to all provisions of this Act that are applicable to a parents and citizens association.

- (4) On commencement of the State school, the interim parents and citizens association shall be the parents and citizens association for that State school.

### **83 Objectives of an association**

The objectives of an association shall be to promote the interests of, and facilitate the development and further improvement of, the State school for which it is formed.

### **84 Functions of an association**

- (1) In pursuit of an association's objectives, the functions of an association shall be—
- (a) to foster generally community interest in educational matters;
  - (b) to endeavour to bring about closer cooperation between the parents of the students attending the State school for which it is formed, other members of the community and the teachers, other members of the staff and students at the school;
  - (c) to provide, if requested by the principal or if an association considers it desirable so to do, advice and recommendations to the principal of the State school for which it is formed upon issues and concerns in respect of students attending that school;
  - (d) to provide, if requested by the principal or if an association considers it desirable so to do, advice and recommendations to the principal of the State school for which it is formed upon the general operations and management of the school;
  - (e) to provide or assist in the provision of financial or other resources or services for the benefit of the students of the State school for which it is formed;
  - (f) by resolution in that behalf at an annual general meeting, general meeting or special meeting of the association to assist a State preschool centre associated with the State school for which it is formed to the extent provided under this Act;

- (g) to perform any other functions, not inconsistent with this Act, as the Minister may from time to time determine.
- (2) In the discharge of its functions an association must comply with this Act and must adhere to any directions that the Minister may give from time to time as regards policy.

### **85 Manner of exercising power etc.**

- (1) Subject to subsection (3), it is not competent to an association to exercise a power or authority or perform a duty without the prior majority vote of its members present and voting in respect of that exercise or performance at a duly constituted meeting.
- (2) An executive committee of an association shall comprise the president, vice-president or vice-presidents (if more than 1), secretary and treasurer of that association.
- (3) In matters of urgency only, any 3 officers of the executive committee of the association may exercise a power or authority or perform a duty by a majority vote of that committee.
- (4) Where an executive committee has acted or purported to act under subsection (3), full particulars of their actions shall be tabled as soon as practicable at the next scheduled general meeting of the association or at a special meeting called for that purpose.
- (5) Failure by an executive committee to table those particulars in accordance with this section shall not affect the validity of any action taken by the committee in respect thereof.
- (6) Despite subsection (3), the executive committee of an association may not remove a person as a member, officer or both a member and officer, of the association.

### **86 Dissolution of association**

An association shall be dissolved—

- (a) if the State school for which it was formed has been discontinued; or

- (b) if the number of members of an association is 2 or less than 2; or
- (c) in such other circumstances as may be prescribed.

## **Division 2                      Officers of an association**

### **87                      Officers of an association**

- (1) An association shall elect each year, as and in the manner prescribed in the regulations, the following officers—
  - (a) a president;
  - (b) at least 1 vice-president, as may be determined by an association by resolution in that behalf;
  - (c) a secretary;
  - (d) a treasurer;
  - (e) such additional officers (if any) as may be determined by an association by resolution in that behalf.
- (2) Officers elected pursuant to subsection (1) shall hold office in an honorary capacity.
- (3) The office of treasurer shall not be held by either the president or the secretary.

### **88                      Vacancy of officers of association**

- (1) The office of an officer of an association becomes vacant if the officer—
  - (a) dies; or
  - (b) resigns by signed notice—
    - (i) for the president—given to a vice-president, secretary or treasurer; or
    - (ii) for another officer—given to the president; or
  - (c) is absent from 3 consecutive meetings of the association, of which the member has been given notice under the constitution, without the association's leave and without reasonable excuse.



- (2) An officer's resignation takes effect on the day the notice of resignation is given to a person under subsection (1)(b) or a later day stated in the notice.

## **Division 3                      Meetings of an association**

### **89            Meetings**

- (1) In this section—  
*meeting* means any annual general meeting, general meeting or special meeting.
- (2) Save as prescribed by or under this Act, meetings of an association shall be convened and the business at such meetings shall be conducted in such manner as an association shall determine.
- (3) The president of an association shall preside at every meeting of the association at which the president is present and—
  - (a) in the absence of the president from such a meeting—a vice-president nominated and confirmed by majority vote at that meeting; or
  - (b) in the absence of the president or a vice-president from such a meeting—a member of the association elected from among the members who are present;  
shall preside at that meeting.
- (4) The president of an association or other person presiding at a meeting shall have a deliberative vote and, in the event of an equality of votes, a casting vote.
- (5) Members, including ex officio members, shall have the right to vote.

## **Division 4                      Subcommittees of an association**

### **90                      Subcommittees**

- (1) An association may establish subcommittees and appoint the membership of such subcommittees as and in the manner prescribed in the regulations.
- (2) An association may establish a subcommittee in connection with a State preschool centre associated with the State school.
- (3) Subcommittee meetings of an association shall be convened and conducted as and in the manner prescribed in the regulations and subject thereto as an association shall determine.

## **Division 5                      Constitution of an association**

### **91                      Constitution**

- (1) Every association shall frame and adopt a constitution and make any amendment thereto or alteration or modification thereof as and in the manner prescribed in the regulations.
- (2) A constitution, or amendments thereto or alterations or modifications thereof, shall have no force or effect unless or until approved by the chief executive.

## **Division 6                      Moneys, property and financial provisions in respect of an association**

### **92                      Vesting and use of moneys and other property in respect of an association**

- (1) Subject to section 96(4), all moneys received by an association shall by force of this section be vested in the corporation to be applied by the association at the direction of the corporation to the following purposes—

- (a) firstly in defraying all expenditure lawfully incurred by the association;
  - (b) secondly towards the objectives and functions of the association in accordance with this Act.
- (2) Subject to subsection (1), all property acquired by an association including property acquired for the benefit of the students of a State school, whether acquired with or without any financial assistance from the Minister or the department shall by force of this section be vested in the corporation for the purposes of this Act.

### **93 Associations are statutory bodies**

- (1) Under the *Statutory Bodies Financial Arrangements Act 1982*, an association is a statutory body.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which an association's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

### **94 Financial year**

An association must, by resolution for the purpose, decide which of the following periods constitutes its financial year—

- (a) 1 January in a year to 31 December in the year;
- (b) 1 July in a year to 30 June in the next year;
- (c) 1 October in a year to 30 September in the next year.

### **95 Audit of association accounts**

Subject to the *Financial Administration and Audit Act 1977*, section 74, the accounts of an association shall be audited as and in the manner prescribed in the regulations.

## **Division 7                      Agreements relating to an association**

### **96            Power to enter into agreements**

- (1) Notwithstanding anything contained in this or any other Act or that any land in question is reserved for a particular purpose, the Minister and an association or either of them alone may enter (and it is hereby declared that they have always had such power) into an agreement with a government department, local government or any other person or body if the agreement is entered into for the benefit of the students at a State school.
- (2) Where an association alone proposes to enter into any such agreement it shall before entering into the agreement obtain the approval of the Minister authorising it to do so.
- (3) Such approval may be given generally in respect of a class of agreement or a particular agreement.
- (4) An association shall deal with any funds coming into its hands pursuant to an agreement referred to in subsection (1)—
  - (a) for the purposes prescribed by section 92(1) or subsection (1); or
  - (b) subject to such purposes, as the Minister directs; or
  - (c) in the absence of such prescription or direction, as the association thinks fit consistent with the objectives of an association.
- (5) An agreement entered into by an association must contain any conditions required by the Minister by notice—
  - (a) given to the association; or
  - (b) published in the Education Office gazette.
- (6) The conditions may relate to a stated agreement or agreements of a stated class.

### **97            President to sign agreements for an association**

- (1) Where an association at an annual general meeting, a general meeting or a special meeting, has passed a resolution to enter

into an agreement, the president of the association is empowered to sign that agreement for and on behalf of the association.

- (2) Upon the president's signature being affixed to any agreement in accordance with this Act, the association shall be bound by the terms and conditions of that agreement.
- (3) Subsection (1) does not derogate the validity of any agreement entered into by an association prior to the commencement of this section.

## **Division 8                      General provisions relating to an association**

### **98            Regulations to provide for membership**

- (1) The regulations may make provision about the way in which a person becomes a member of an association.
- (2) Subsection (1) is subject to section 81.<sup>13</sup>
- (3) However, a person's membership is renewable each year at the annual general meeting of the association.
- (4) A person who is refused membership of an association may make a submission to the Minister about the refusal, and appeal to a Magistrates Court, as if the person had been a member of the association and been removed from the association.

### **99            Register of members**

An association shall establish and maintain a register of members as and in the manner prescribed in the regulations.

### **100          Indemnification of association members**

The Minister may indemnify a member of an association against any liability incurred by the member on account of anything done or omitted to be done by the member as a

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13    Section 81 (Formation of parents and citizens association)

member for the purposes of this Act or done or omitted to be done by the member as a member in good faith and without negligence and purporting to be for the purposes of this Act.

### **101 Association may employ**

An association may employ such employees as it considers necessary for the purpose of achieving its objectives.

### **102 Mandatory insurance cover**

An association shall purchase and maintain such insurance coverage as required by the chief executive by notification published from time to time in the Education Office gazette.

### **103 Proceedings in relation to an association**

- (1) Proceedings in any court may be taken and prosecuted in the name of the association through the president or any person being a member of the association appointed in writing for the purpose by the president.
- (2) Provided that the Minister's approval is first had and obtained for any such proceeding.
- (3) Every court of law shall take judicial notice of the signature of the president to any such appointment pursuant to subsection (1).
- (4) In any such proceedings, it shall not be necessary to prove the authority of the person by or through whom the same are taken or prosecuted or the membership of the association by that person.
- (5) Proceedings in any court may be taken against an association in its name as prescribed in the regulations.
- (6) Any document commencing proceedings in subsection (5) shall be served on the chief executive.
- (7) Any damages or costs awarded to a plaintiff by virtue of a proceeding against an association pursuant to subsection (5) shall be a lawful expense of an association pursuant to section 92(1) and shall be met from funds available to the association.

- (8) The Minister may, in granting approval for a proceeding pursuant to subsection (2) or in relation to a proceeding against the association pursuant to subsection (5), issue directions in relation to such proceeding in which case the association shall comply with such directions.

#### **104 Authority of an association**

- (1) Without derogating from the authority of the principal in the principal's capacity as the person in charge of the State school for which the association is formed, an association may exercise such authority as is consistent with its functions as prescribed by this Act.
- (2) An association shall not exercise any authority over the teaching staff or over the control or management of any State school.

#### **105 Participation of association in school committees etc.**

- (1) An association may, at the invitation of the principal of the State school for which it is formed and by resolution in that behalf passed by a majority at a meeting of the association, undertake to participate in any committee or other body comprising members of the staff of a State school established to make recommendations to the principal of a State school upon aspects of school operations.
- (2) Subject to this Act, the president of an association is authorised to confer with the principal of the State school for which the association is formed upon the implementation of any recommendation made pursuant to subsection (1).

#### **106 Disclosure of interests by members of association**

- (1) This section applies to an interested member if—
- (a) the interested member has a direct or indirect financial interest in an issue being considered, or about to be considered, by the entity; and
- (b) the interest could conflict with the proper performance of the member's duties in relation to the consideration of the issue.

- (2) As soon as practicable after the relevant facts come to the interested member's knowledge, the member must disclose the nature of the interest to a meeting of the entity.
- (3) Unless the entity otherwise directs, the interested member must not—
  - (a) be present when the entity considers the issue; or
  - (b) take part in a decision of the entity about the issue.
- (4) The interested member must not be present when the entity is considering whether to give a direction under subsection (3).
- (5) If there is another member who must, under subsection (2), also disclose an interest in the issue, the other member must not—
  - (a) be present when the entity is considering whether to give a direction under subsection (3); or
  - (b) take part in making the decision about giving the direction.
- (6) If, because of this section, a member is not present at an entity meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3), but there would be a quorum if the member were present, the remaining members present are a quorum of the entity for considering or deciding the issue at the meeting.
- (7) A disclosure under subsection (2) must be recorded in the minutes of the entity.
- (8) In this section—

*entity*, in relation to an interested member, means the association or the executive committee or a subcommittee of the association.

*interested member* means a member of an association, or the executive committee or a subcommittee of the association.

## **107 Honorary life membership of association**

- (1) An association, other than an interim parents and citizens association, may decide to award honorary life membership to a person who is or was a member of the association.



- (2) However, the awarding of honorary life membership may be given only if the association decides the person has given long and meritorious service to the association.
- (3) The decision must be made—
  - (a) at an annual general meeting of the association; and
  - (b) by a two-third majority vote of the members present at the meeting.
- (4) A person who is the subject of a proposed resolution to award the person honorary life membership of the association must not—
  - (a) be present during discussions about the proposal or voting on it; and
  - (b) if the person is a member—exercise the member’s right to vote in any way despite section 89(5).<sup>14</sup>

## **Division 9                      Removal of member and officers of association**

### **108      Definitions for div 9**

In this division—

*nominated person*, in relation to an association, means—

- (a) a person who is a member, or a member and officer, of the association; or
- (b) if a person is removed as a member, officer or both a member and officer of the association under this division—the person.

*notice of removal* means a notice, under section 111(3), from an association to a nominated person removing the nominated person.

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14      Section 89 (Meetings)

**officer**, of an association, means a person elected to an office of the association as mentioned in section 87.<sup>15</sup>

**remove**, a nominated person, means—

- (a) if the person is a member only of an association—remove the person as a member of the association; or
- (b) if the person is a member of an association and one of its officers—remove the person as a member and officer of the association, or as an officer of the association only.

### **109 Removal of nominated person by association**

An association may remove a nominated person only under this division.

### **110 Grounds for removal**

Each of the following is a ground for removing a nominated person—

- (a) the nominated person is convicted of an indictable offence;
- (b) the nominated person, without reasonable excuse, contravenes the Act or the association's constitution;
- (c) for a nominated person who is an officer of the association—the nominated person, without reasonable excuse, fails to perform the duties of the office held in a competent manner;
- (d) the nominated person engages in other conduct that is injurious or prejudicial to—

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15 Section 87 (Officers of an association) provides for the following officers—

- (a) a president;
- (b) at least 1 vice-president, as may be determined by an association by resolution in that behalf;
- (c) a secretary;
- (d) a treasurer;
- (e) such additional officers (if any) as may be determined by an association by resolution in that behalf.

- (i) the promotion of the interests of, or the facilitating of the development and further improvement of, the State school for which the association is formed; or
- (ii) the good order and management of the State school for which the association is formed.

### **111 Procedure for removal of nominated person**

- (1) If the association considers a ground exists to remove a nominated person (the *proposed action*), the association must give the nominated person written notice that—
  - (a) states the proposed action; and
  - (b) states the grounds for the proposed action; and
  - (c) outlines the facts and circumstances forming the basis for the grounds; and
  - (d) invites the nominated person to show, within a stated time of at least 14 days, why the proposed action should not be taken.
- (2) If, after considering all written representations made within the stated time, the association still considers a ground to take the proposed action exists, the association may—
  - (a) if the proposed action was to remove the nominated person as a member only—remove the nominated person as a member; or
  - (b) if the proposed action was to remove the nominated person as an officer only—remove the nominated person as an officer; or
  - (c) if the proposed action was to remove the nominated person as both a member and an officer—remove the nominated person as both or as an officer only.
- (3) The association must inform the nominated person of the decision by written notice.
- (4) The notice must be given within 14 days after the association makes its decision.

- (5) If the association decides to remove the nominated person, the notice must state—
  - (a) the reasons for the decision; and
  - (b) the date, under subsection (6), on which the decision takes effect; and
  - (c) that the person may make a submission to the Minister against the decision; and
  - (d) the name and address of the Minister; and
  - (e) the way in which the submission may be made.
- (6) The decision takes effect on the later of the following—
  - (a) the day when the notice is given to the nominated person;
  - (b) the day of effect stated in the notice.
- (7) However, if the nominated person is removed from office because of the conviction of the person for an offence—
  - (a) the removal does not take effect until—
    - (i) the end of the time to appeal against the conviction; and
    - (ii) if an appeal is made against the conviction—the appeal is finally decided; and
  - (b) the removal has no effect if the conviction is quashed on appeal.

## **112 Submissions against removal**

- (1) A person removed by an association may make a submission against the removal to the Minister.
- (2) The submission must—
  - (a) be in writing; and
  - (b) include an address in Australia to which notices for the person may be sent; and
  - (c) state fully the grounds for the submission and the facts relied on; and

- (d) include a copy of the notice of removal from the association.
- (3) The submission must be given to the Minister—
  - (a) within 14 days of the notice of removal being given to the person; or
  - (b) if the Minister allows a later time for giving the submission—the later time.
- (4) If a person who has been removed from an association resigns or purports to resign from the association as a member or officer after receipt of a notice of removal, the person may not make a submission under subsection (1).

### **113 Dealing with submissions against removal**

- (1) If a submission is made to the Minister, the Minister must promptly consider the decision and the submission and—
  - (a) affirm the decision; or
  - (b) vary the decision; or
  - (c) set aside the decision and make a new decision in substitution of the decision to remove the person.
- (2) After the Minister has decided to affirm, vary or set aside the decision, the Minister must—
  - (a) promptly tell the person of the Minister's decision; and
  - (b) within 7 days after telling the person about the decision—give written notice to the person and relevant association about—
    - (i) the Minister's decision; and
    - (ii) the reasons for the decision; and
    - (iii) the person's right to appeal, under section 148,<sup>16</sup> against the Minister's decision, including the time within which the person may appeal.



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- (ii) the learning outcomes that the proposed arrangements are intended to achieve; and
    - (iii) the suitability of each provider; and
  - (b) the entity has considered—
    - (i) the written assessments prepared under paragraph (a); and
    - (ii) how, and by whom, the student's participation in the arrangements is to be monitored; and
    - (iii) how, and by whom, each provider's involvement in the arrangements is to be monitored and its effectiveness evaluated; and
  - (c) the entity is satisfied the arrangements are appropriate, having regard to—
    - (i) the student's individual needs and circumstances; and
    - (ii) what the entity considers is most likely to achieve the best learning outcomes for the student; and
    - (iii) the desirability, unless it would be inappropriate in all the circumstances, of the arrangements requiring the student's participation at a level that is equivalent to full-time participation in the school's educational programs in the usual way; and
    - (iv) any other matter prescribed under a regulation; and
  - (d) a parent of the student has given written agreement to the arrangements; and
  - (e) the entity has discussed the proposed arrangements with the student to the extent the entity considers appropriate, having regard to the student's age and other relevant circumstances.
- (3) The non-State school must keep, for at least 5 years after the arrangements stop applying to the student—
  - (a) the written assessments prepared under subsection (2)(a); and

- (b) a record of the authorised entity's consideration of the matters stated in subsection (2)(b); and
  - (c) the written agreement obtained under subsection (2)(d).
- (4) However, subsection (2)(d) does not apply if the authorised entity is satisfied it would be impracticable or inappropriate in the circumstances to require the written agreement of a parent.

*Example—*

It may be inappropriate to require a parent's written agreement if the student is living independently of his or her parents.

- (5) In this section—

***authorised entity***, for a non-State school, means—

- (a) the school's governing body under the *Education (Accreditation of Non-State Schools) Act 2001*; or
- (b) a staff member of the school given written authorisation by the governing body for this section.

***provider***, in relation to arrangements for a student, means an entity directly involved in providing a program to the student under the arrangements.

***student*** means a student of compulsory school age.

### **114B Flexible arrangements—State educational institution**

- (1) The chief executive may approve arrangements for a student enrolled with a State educational institution that are to apply to the student instead of participation in the institution's educational programs in the usual way.
- (2) Section 114A(2), (4) and (5), except the definition *authorised entity*, apply to the chief executive and the student as if—
  - (a) a reference to the authorised entity were a reference to the chief executive; and
  - (b) a reference to the non-State school were a reference to the State educational institution.



**115 Dispensation from compliance with compulsory enrolment and attendance provisions**

- (1) The chief executive may grant to a parent of a child of compulsory school age, in respect of that child, dispensation from compliance with any obligation set forth in section 114 during the period specified (if any) in such dispensation and may at any time revoke the dispensation so granted.
- (2) In connection with a dispensation referred to in subsection (1), any of the following shall be deemed to be a valid reason for such dispensation—
  - (a) that the child concerned is receiving, in the opinion of the chief executive, instruction—
    - (i) in a place other than a State school or a non-State school in accordance with guidelines approved by the Governor in Council; or
    - (ii) in a range of subjects acceptable to the chief executive, in some other manner which, in the opinion of the chief executive, is efficient and regular;
  - (b) that the child concerned has been prevented from attending school by—
    - (i) sickness; or
    - (ii) temporary or permanent infirmity; or
    - (iii) an unavoidable cause; or
    - (iv) fear of infection with disease;which, in the opinion of the chief executive, is reasonable;
  - (c) that the child has been prohibited, or belongs to a class which has been prohibited, by any Act, regulation or other rule of law from attending school on the ground that the child, or such class, is suffering from an infectious or contagious disease or that the child's presence might be injurious to the health or welfare of other children attending school;
  - (e) that there is any other reason which, in the opinion of the chief executive, is valid.

- (2A) The guidelines approved under subsection (2)(a)(i) may, for an application for a dispensation for the reason mentioned in that subparagraph, provide for each of the following—
- (a) notifying the applicant of the decision on the application;
  - (b) if it is decided not to grant the application—the internal review of the decision.
- (3) The chief executive may grant to a parent of a child of compulsory school age, in respect of that child, provisional dispensation from compliance with any obligation set forth in section 114 during the period specified in such provisional dispensation and may at any time revoke the provisional dispensation so granted.
- (4) A provisional dispensation shall be granted only in respect of that period of time, in whole or part, during which an application pursuant to section 116 is being determined.
- (5) Section 114(1) does not apply to a child to the extent stated in a dispensation or provisional dispensation in force for the child.

### **116 Application for dispensation from compliance with compulsory enrolment and attendance provisions**

A parent of a child of compulsory school age seeking dispensation from compliance with compulsory enrolment and attendance provisions, pursuant to section 115 shall make application in the approved form.

### **116A Child's suspension or exclusion**

- (1) Section 114(1) does not apply to a child who has been excluded permanently from all State educational institutions.
- (2) Section 114(1)(b) does not apply—
- (a) for a child who is excluded for a limited period from all State educational institutions—while the child is excluded; or
  - (b) for a child who is suspended from the State educational institution with which the child is enrolled—while the

child is suspended and is not placed in an alternative education program under section 30; or

- (c) for a child who is suspended from the non-State school with which the child is enrolled—while the child is suspended.

- (3) In this section—

***excluded***, from a State educational institution, means excluded under part 4, division 3 or 3A.

***suspended***, from a State educational institution, means suspended under part 4, division 2.

### **116B Child's illness**

- (1) Section 114(1)(b) does not apply to a child for a period of not more than 10 consecutive school days during which the child is too ill to attend the State educational institution or non-State school with which the child is enrolled.

*Note—*

For a child who is prevented by ill-health from attending school for longer periods, see section 115 for the chief executive's power to grant a dispensation.

- (2) A regulation may provide for the obligations of the parents of a child mentioned in subsection (1).

### **117 Information notice and meeting**

- (1) This section applies if an authorised officer reasonably suspects a child of compulsory school age—
  - (a) is not enrolled with a State educational institution or a non-State school; or
  - (b) is not attending the institution or school with which the child is enrolled, on every school day, for the educational program in which the child is enrolled.
- (2) The officer may give a parent of the child a notice in the approved form about—
  - (a) the obligation under section 114; and
  - (b) the offence under section 118.

- (3) The officer may also meet with the parent to discuss the matters mentioned in subsection (2)(a) and (b).
- (4) If, despite the officer taking reasonable steps to meet with the parent under subsection (3), no meeting is held, the officer may give the parent a warning notice in the approved form.
- (5) For the *Police Powers and Responsibilities Act 2000*, section 14,<sup>17</sup> an authorised officer acting under this section is a public official performing a function authorised by this Act.
- (6) In this section—  
***authorised officer*** means the chief executive or an officer of the department authorised by the chief executive for this section.

## **118 Penalty for noncompliance with compulsory education provisions**

- (1) A parent of a child of compulsory school age commits an offence if the parent contravenes section 114 without a reasonable excuse.  
Maximum penalty—
  - (a) for a first offence—5 penalty units; or
  - (b) for a second or subsequent offence, whether or not relating to the same child of the parent—10 penalty units.
- (2) Without limiting subsection (1), it is a reasonable excuse for a parent to contravene section 114 that—
  - (a) the child lives with another parent and the first parent believes, on reasonable grounds, that the other parent is ensuring the enrolment and attendance required under section 114; or
  - (b) in all the circumstances, the parent is not reasonably able to control the child's behaviour to the extent necessary to comply with section 114; or

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<sup>17</sup> *Police Powers and Responsibilities Act 2000*, section 14 (Helping public officials exercise powers under other Acts)

- (c) the child has been excluded from the State educational institution or non-State school with which the child was enrolled and the non-compliance is or was only for the time reasonably required for the parent to arrange the child's enrolment with another institution or school.
- (2A) Proceedings for the offence may be brought against a parent—
- (a) only by the chief executive or with the chief executive's consent; and
  - (b) only if the time when the parent is alleged to have committed the offence is after—
    - (i) the parent has been given a notice under section 117(2); and
    - (ii) at least 1 meeting has been held with the parent under section 117(3) or the parent has been given a warning notice under section 117(4).
- (3) In a proceeding in respect of such an offence—
- (a) it shall not be necessary to prove the authority of any person to commence such proceeding; and
  - (b) a statement in a complaint that a child was of compulsory school age at the time of the offence is evidence of the matter; and
  - (c) a certificate purporting to be signed by the principal of a school—
    - (i) that the child named therein is or is not enrolled in such school; or
    - (ii) wherein are specified the particulars of attendance of the child named therein at such school;is evidence of the things contained in the certificate; and
  - (d) a certificate purporting to be signed by the chief executive as to whether or not the chief executive has granted to a parent specified therein of a child of compulsory school age specified therein a dispensation or a provisional dispensation in accordance with section 115 and the period (if any) of the operation of

the dispensation is evidence of the things contained in the certificate; and

- (e) a signature purporting to be the signature of the chief executive or an authorised officer is evidence of the signature it purports to be; and
  - (f) a certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter—
    - (i) a stated document is a notice given under this Act;
    - (ii) a stated document is a copy of a notice given under this Act;
    - (iii) on a stated day, a stated person was given a stated notice under this Act;
    - (iv) on a stated day, or during a stated period, an authorisation as an authorised officer was, or was not, in force for a stated person; and
  - (g) a certificate, purporting to be signed by the chief executive, that the chief executive consents to the bringing of the proceeding is evidence of the consent.
- (4) In this section—  
*authorised officer* see section 117(6).

## **119 Employment of children of compulsory school age**

- (1) A parent shall not employ or cause or permit to be employed during the hours prescribed under a regulation for attendance at school the parent's child who is of compulsory school age unless there is in existence at the material time, in respect of that child, a dispensation granted in accordance with section 115(1).

Maximum penalty—5 penalty units.

- (2) For the purposes of subsection (1), a parent of a child who causes or permits such child to engage in any calling carried on by such parent by way of trade or for purposes of gain shall be deemed to employ such child in such calling.
- (3) A parent of a child shall not give—

- (a) to any person who is then employing such child; or
- (b) to any person who thereafter employs such child; or
- (c) to any person appointed under or for the purposes of this Act;

any information which to the parent's knowledge is false concerning the age of such child or touching any other matter to which subsection (1) or (2) relates.

Maximum penalty—5 penalty units.

- (4) Subsection (1) does not apply to the employment of a child under arrangements approved for the child under section 114A or 114B.
- (5) Also, subsection (1) applies subject to a law of the Commonwealth under which a person of compulsory school age may be employed.

## **Part 8 Allocation of State education**

### **Division 1 Application and purpose of part**

#### **120 Application of part to student below 15**

A student who is under 15 years at the time of starting a semester at a State educational institution, but does not have any remaining allocation, may attend the institution for all of the semester without making an application under division 3 or 5.<sup>18</sup>

#### **121 Allocation of semesters for each student**

- (1) The purpose of this part is to ensure that each student who enrolls in a State educational institution has an allocation of State education.

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<sup>18</sup> Division 3 (Extra semesters may be granted by principals) or 5 (Further semesters may be granted by chief executive)

- (2) If a student enrolls in year 1 in a State educational institution before the student is 7 years of age, the student has the basic allocation.<sup>19</sup>
- (3) For some students, the principal of a State educational institution must calculate the remaining allocation for the student.
- (4) Under certain circumstances, an allocation may be increased—
  - (a) by the principal of a State educational institution under division 3; or
  - (b) by the chief executive under division 5.

## **Division 2                      Calculation of basic and remaining allocations**

### **122      Calculation of allocation where student begins schooling at State educational institution**

- (1) If a student begins school in year 1 at a State educational institution before the student is 7 years of age, the student has the basic allocation from the start of the semester in the school year in which the student began schooling.
- (2) However, subsection (1) does not apply to the following students—
  - (a) a student who begins schooling at a special education developmental centre;
  - (b) a student who received schooling at a non-State school or, in accordance with guidelines approved by the Governor in Council, instruction at a place other than a State educational institution or non-State school;
  - (c) a student who received schooling outside of the State;
  - (d) a person who, at any time before the end of semester 2 in 1997, was enrolled in a State educational institution, other than a student mentioned in paragraph (e);

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19 See section 122(1).



- (e) a student enrolled in a year level mentioned in column 1 of section 123(3) at the end of semester 2 in 1997.

### **123 Calculation of allocation if s 122(1) does not apply**

- (1) If a student begins schooling at a special education developmental centre, the student has the basic allocation, calculated from the start of the semester in the school year in which the student attains or attained 6 years of age.
- (2) If a student is a student mentioned in section 122(2)(b), (c) or (d) and the student applies to enrol in a State educational institution, the principal must decide the student's remaining allocation.
- (3) If a student (other than a student mentioned in subsection (1) or (2)) is enrolled in a year level mentioned in column 1 at the end of semester 2 in 1997, subject to subsection (4), the principal of the State educational institution in which the student was enrolled is taken to have decided that the student has a remaining allocation mentioned opposite in column 2.

<b>Column 1</b>	<b>Column 2</b>
1	22
2	20
3	18
4	16
5	14
6	12
7	10
8	8
9	6
10	4
11	2
12	0

- (4) However, if the principal of a State educational institution decides that the application of subsection (3) to a student mentioned in section 122(2)(e) is inappropriate, the principal must decide the student's remaining allocation.

- (4A) The principal's decision that it is inappropriate for subsection (3) to apply to the student is, for section 124(2), a decision about the student's remaining allocation.
- (5) If the student has been the subject of a dispensation under section 115 for a reason mentioned in section 115(2)(b),(c) or (e) and did not attend an educational program for all or part of the period of the dispensation (the *excused period*), the excused period must not be included in calculating the student's remaining allocation.

#### **124 Principal must consider remaining allocation for certain students**

- (1) This section applies to a decision by the principal of a State educational institution about a student, under section 123.
- (2) The principal's decision about a student's remaining allocation must be made in the way the principal considers appropriate after considering all relevant matters, including, for example—
  - (a) the age, ability, aptitude and development of the student; and
  - (b) the need to take account and promote continuity of the student's learning experiences; and
  - (c) whether the enrolment is compulsory or non-compulsory; and
  - (d) if the student's enrolment is non-compulsory—the student's commitment to complete a course of study.
- (3) If the student has applied to enrol in the State educational institution, the principal must make the decision within a reasonable time of the date of the application to enrol in the State educational institution.
- (4) After the principal has made a decision about the application, the principal must—
  - (a) promptly tell the student about the decision; and
  - (b) within 7 days after telling the student about the decision—give written notice to the student about the student's remaining allocation.

- (5) The notice must state—
  - (a) the principal's decision; and
  - (b) the reasons for the decision; and
  - (c) that if the student is not satisfied with the principal's decision the student may make a submission to the principal's supervisor against the decision; and
  - (d) the title, name and address of the supervisor; and
  - (e) the way in which the submission may be made.

## **125 Notice to certain students about remaining allocation**

- (1) This section applies to students—
  - (a) who are enrolled in semester 2 in a calendar year in a State educational institution; and
  - (b) whose remaining allocation will be 4, or less than 4, semesters at the end of the calendar year.
- (2) By the end of the calendar year, the principal of the State educational institution must give written notice to each student about the student's remaining allocation after the end of semester 2 of the calendar year.
- (3) The notice must state—
  - (a) the principal's decision; and
  - (b) the reasons for the decision; and
  - (c) that if the student is not satisfied about the decision the person may make a submission to the principal's supervisor against the decision; and
  - (d) the title, name and address of the supervisor; and
  - (e) the way in which the submission may be made.
- (4) The notice may be included with another report or document given to the student.

**125A Other notices about allocation**

- (1) This section applies to a student who—
  - (a) is enrolled in a State educational institution for the first time; or
  - (b) is repeating, in a State educational institution, a year for which the student has already been enrolled in a State educational institution.
- (2) The principal must give the student written information about the allocation of State education under this part.
- (3) If the student to whom written notice must be given is under 18 years, the written information must be given also to—
  - (a) if a parent has care and control of the student—the parent; or
  - (b) if another adult has care and control of the student—the adult.
- (4) For a person mentioned in subsection (1)(b), the notice must be given before the student begins to repeat the year.

**125B Copy of notices under this part to be given to parent etc.**

- (1) If a person is required, under this part, to give a notice to a student and the student is under 18 years, the person must, as soon as possible, give a copy of the notice to—
  - (a) if a parent has care and control of the student—the parent; or
  - (b) if another adult has care and control of the student—the adult.
- (2) In deciding to whom a notice must be given under subsection (1), the person required to give the notice may rely on the relevant State educational institution's records about—
  - (a) if a parent, or another adult, has care and control of the student; and
  - (b) the current residential address of the parent or adult.

### **Division 3                    Extra semesters may be granted by principals**

#### **126    Application for extra semesters if no remaining allocation**

- (1) This section applies to a student who does not have any remaining allocation.
- (2) The student may apply, in the approved form, to the principal of a State educational institution for the granting, in a school year, of not more than 2 extra semesters of State education at the State educational institution.
- (3) The application must be given to the principal before—
  - (a) 12 weeks before the start of the semester, or the first of the semesters, to which the application relates; or
  - (b) if the principal allows a later time for giving the application—the later time.

#### **127    Principal must consider and decide application for extra semesters**

- (1) The principal must consider the application and make a decision about it in the way the principal considers appropriate after considering all relevant matters, including, for example—
  - (a) whether the student is of compulsory school age; and
  - (b) the likely educational outcome of the student attending the institution for the extra semester or semesters; and
  - (c) the likely impact on the resources of the State educational institution of the student attending the institution for the extra semester or semesters.
- (2) However, the principal must make the decision within a reasonable time of the date of the application, having regard to the need to collect and analyse the results of any assessment of the student undertaken during the semester immediately before the semester, or the earlier of the semesters, to which the application relates.

- (3) After the principal has made the decision, the principal must—
  - (a) promptly tell the student about the decision; and
  - (b) within 7 days after telling the student about the decision—give written notice to the student about the principal’s decision and reasons for the decision.
- (4) However, if the principal does not grant the application for the semester, or for both semesters, as applied for by the student, the written notice must also state—
  - (a) that the person may make a submission to the principal’s supervisor against the decision; and
  - (b) the title, name and address of the supervisor; and
  - (c) the way in which the submission may be made.

### **128 Limitation on extra semesters granted by principals**

No more than 4 extra semesters may be granted to a student under this division.

## **Division 4 Submissions against principal’s decision**

### **129 Submissions against principal’s decision**

- (1) This section applies to a decision of the principal of a State educational institution—
  - (a) about the allocation of semesters to a student under division 2, including a decision under section 123(3) or (4) or 125; or
  - (b) an application for an extra semester or semesters under division 3.
- (2) The student may make a submission against the principal’s decision to the principal’s supervisor.

- (3) The submission must—
  - (a) be in writing; and
  - (b) state fully the grounds for the submission and the facts relied on.
- (4) The submission must be given to the principal's supervisor—
  - (a) within 14 days of the written notice of the principal's decision being given to the student; or
  - (b) if the principal's supervisor allows a later time for giving the submission—the later time.

### **130 Dealing with submissions against principal's decision**

- (1) If a submission is made to the principal's supervisor, the supervisor must promptly consider the decision and the submission and—
  - (a) affirm the decision; or
  - (b) vary the decision; or
  - (c) set aside the decision and make a new decision in substitution of the decision.
- (2) After the supervisor has decided to affirm, vary or set aside the decision, the supervisor must—
  - (a) promptly tell the student about the supervisor's decision; and
  - (b) within 7 days after telling the student about the decision—give written notice to the student about—
    - (i) the decision of the principal's supervisor; and
    - (ii) the reasons for the decision; and
    - (iii) the student's right to appeal, under section 148,<sup>20</sup> against the supervisor's decision, including the time within which the student may appeal.

## **Division 5                      Further semesters may be granted by chief executive**

### **131      Application for further semesters if no remaining allocation and after extra semesters**

- (1) This section applies to a student who does not have any remaining allocation and who has been granted 4 extra semesters under division 3.
- (2) The student may apply, in the approved form, to the chief executive for the granting of not more than 2 further semesters of State education at a specified State educational institution.
- (3) The application must be given to the chief executive before—
  - (a) 12 weeks before the start of the semester, or the first of the semesters, to which the application relates; or
  - (b) if the chief executive allows a later time for giving the application—the later time.

### **132      Chief executive must consider and decide application for further semesters**

- (1) The chief executive must consider the application and decide the application in the way the chief executive considers appropriate after considering all relevant matters, including, for example—
  - (a) whether the student is of compulsory school age; and
  - (b) the likely educational outcome of the student attending the specified State educational institution for the extra semester or semesters; and
  - (c) the likely impact on the resources of the specified State educational institution of the student attending the institution for the extra semester or semesters.
- (2) However, the chief executive must make the decision within a reasonable time of the date of the application, having regard to the need to collect and analyse the results of any assessment of the student undertaken during the semester immediately before the semester, or the earlier of the semesters, to which the application relates.



- (3) After the chief executive has made a decision about the application, the chief executive must—
- (a) promptly tell the student about the decision; and
  - (b) within 7 days after telling the student about the decision—give written notice to the student about—
    - (i) the chief executive’s decision; and
    - (ii) the reasons for the decision; and
    - (iii) the student’s rights, under section 148, to appeal against the chief executive’s decision, including the time within which the student may appeal.

**133 Chief executive to give notice to principal if further semesters granted**

If the chief executive grants an application in relation to a student for further semesters, the chief executive must give written notice to the principal of the State educational institution that the student is to attend about the chief executive’s decision.

- (2) The notice must state—
- (a) the name of the student; and
  - (b) the educational level of the student; and
  - (c) the period of the extension; and
  - (d) other information that the chief executive considers, on reasonable grounds, to be necessary in the circumstances.

**134 Limitation on further semesters granted by chief executive**

No more than 2 further semesters may be granted to a student under this division.

## **Part 8A                      Schools in receipt of subsidy**

### **Division 1                      Scholarships and allowances**

#### **134A    Provision of scholarships and allowances**

- (1) For the purposes of this section—  
*school in receipt of subsidy*, used in relation to a school, is a reference to—
  - (a) each State school; or
  - (b) each operating non-State school, the governing body of which is eligible for Government funding for the school under the *Education (Accreditation of Non-State Schools) Act 2001*.
- (2) Subject to appropriation by Parliament of money for the purpose, the Minister may—
  - (a) provide scholarships to be competed for by students attending schools in receipt of subsidy;
  - (b) pay allowances in respect of students who, in the opinion of the Minister, are students in respect of whom allowances should be paid and who are attending schools in receipt of subsidy.
- (3) The Minister may pay an allowance under subsection (2)(b) on reasonable conditions the Minister considers appropriate.
- (4) The Minister may from time to time cause to be inspected by a person authorised by the Minister in that behalf any school which may be attended or is attended by a student in respect of whom moneys of the State may be, are being or have been expended as the case may be pursuant to this section.

### **Division 2                      Financial data**

#### **134AB Requirement to give financial data**

- (1) The purpose of this section is to enable the Minister to obtain information in relation to a non-State school in receipt of

subsidy for deciding the amount of an allowance payable under section 134A(2)(b) for students attending the school.

- (2) The governing body of a non-State school in receipt of subsidy must on or before the day prescribed under a regulation give the Minister financial data, for the school, relating to the previous year of operation of the school.
- (3) The data must be provided in the approved form.
- (4) The source of the data must be the audited financial statements for the school's governing body for the relevant year.
- (5) Subsection (1) does not limit the matters the Minister may have regard to in deciding the amount of an allowance payable under section 134A(2)(b).
- (6) Subsection (2) does not apply if the school has been in operation for less than the whole of the relevant year.

### **134AC Further information or documents relating to financial data**

- (1) This section applies to the governing body of a school that has given financial data for the school to the Minister under section 134AB.
- (2) The Minister may by written notice given to the governing body require it to give the Minister, within a reasonable time of at least 28 days stated in the notice, further information or a document the Minister reasonably requires about the data.
- (3) The governing body must comply with the requirement within the stated time.

### **134AD False or misleading information or documents**

- (1) A school's governing body must not under section 134AB or 134AC give information to the Minister the governing body knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

- (2) A school's governing body must not under section 134AB or 134AC give the Minister a document containing information

the governing body knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

- (3) Subsection (2) does not apply to a school's governing body if the governing body, when giving the document—
  - (a) tells the Minister, to the best of the governing body's ability, how it is false or misleading; and
  - (b) if the governing body has, or can reasonably obtain, the correct information—gives the correct information.

### **134AE Confidentiality of financial data**

- (1) This section applies to the following persons—
  - (a) a person who is, or was, the Minister;
  - (b) another person who is, or was, involved in the administration of this division, including, for example, as a public service employee.
- (2) The person must not disclose protected information to anyone else.

Maximum penalty—50 penalty units.

- (3) Subsection (2) does not apply if—
  - (a) the information is disclosed—
    - (i) in the performance of functions under this division; or
    - (ii) with the written consent of the governing body of the school to which the information relates; or
  - (b) the information is otherwise publicly available; or
  - (c) the disclosure of the information is permitted or required under an Act or other law.
- (4) In this section—

*information* includes a document.

*protected information* means information disclosed to, or obtained by, a person to whom this section applies under section 134AB or 134AC.

## **Division 3                      Giving of allowance acquittal details**

### **134B Allowance acquittal details**

- (1) This section applies to a non-State school, for which allowances are being paid under section 134A(2)(b).
- (2) Within 6 months after the end of each calendar year, the school's governing body must, in the approved form, give the board allowance acquittal details for the school for the calendar year.
- (3) Without limiting subsection (2), the governing body is taken to comply with subsection (2) if the details are given to the board, on the governing body's behalf, by an authorised nominee of the governing body.
- (4) If the governing body does not comply with this section, the noncompliance is a ground for stopping payment of the allowances.
- (5) In this section—

*allowance acquittal details*, for a school for a calendar year, means details of how the allowances have been expended, during the calendar year, by the school's governing body.

### **134C Annual report**

As soon as practicable after the end of each calendar year, the board must give the Minister a written report about the details received by the board, under section 134B, relating to the calendar year.

### **134D Show cause notice**

- (1) This section applies if the board believes the ground, mentioned in section 134B(4), exists for stopping payment of the allowances.
- (2) The board must give the governing body a notice (a *show cause notice*) stating the following—

- (a) that the board proposes to make a recommendation that payment of the allowances be stopped (the *proposed recommendation*);
  - (b) the grounds for the proposed recommendation;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) an invitation to the governing body to show, within a stated period (the *show cause period*), why the proposed recommendation should not be made.
- (3) The show cause period must be a period ending at least 30 days after the show cause notice is given to the governing body.

#### **134E Representations about show cause notice**

- (1) The governing body may make written representations about the show cause notice to the board in the show cause period.
- (2) The board must consider all written representations (the *accepted representations*) made under subsection (1).

#### **134F Ending show cause process without further action**

If, after considering the accepted representations for the show cause notice, the board no longer believes the ground exists for stopping payment of the allowances, the board—

- (a) must not take further action about the show cause notice; and
- (b) must, as soon as practicable, give notice to the governing body that no further action is to be taken about the show cause notice.

#### **134G Recommendation by board**

- (1) This section applies if after considering the accepted representations for the show cause notice, the board still believes the ground exists for stopping payment of the allowances.

- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The board must make a recommendation that payment of the allowances be stopped.
- (5) The board must, as soon as practicable after making the recommendation, give the recommendation to the Minister.
- (6) In this section—  
*recommendation* includes reasons for the recommendation.

### **134H Decision of Minister**

- (1) This section applies if the Minister receives a recommendation under section 134G(5).
- (2) The Minister must decide whether payment of the allowances should be stopped.
- (3) In making the decision, the Minister must have regard to the recommendation.
- (4) To remove doubt, it is declared that the Minister is not bound by the recommendation.
- (5) If the Minister decides that payment of the allowances be stopped, the Minister must as soon as practicable give the board and governing body notice of the decision and reasons for the decision.
- (6) If the Minister decides that payment of the allowances not be stopped, the Minister must as soon as practicable give the board and governing body notice of the decision.
- (7) In this section—  
*recommendation* includes reasons for the recommendation.

### **134I Minister's discretion not limited**

- (1) The ground, mentioned in section 134B(4), for stopping payment of allowances to a school under section 134A(2)(b) does not limit the Minister's discretion to stop payment for another reason.

- (2) Also, if the Minister decides under section 134H that payment of allowances to a school under section 134A(2)(b) not be stopped, the decision does not limit the Minister’s discretion to stop payment at a later time.

## **Part 9                                  Various general provisions**

### **135      Formation of and participation in corporations etc.**

- (1) The corporation may be a member of, or form or participate in the formation of, or manage a corporation or partnership the objects or purposes of which include 1 or more of the following objects or purposes—
  - (a) providing facilities or services for study, research or education;
  - (b) undertaking research, development, consultancy or other services for commercial organisations, public bodies or individuals;
  - (c) aiding or engaging in the development or promotion of research or the application or use of the results of such research;
  - (d) preparing, publishing, distributing or licensing the use of literary or artistic work, audio or audiovisual material or computer software;
  - (e) exploiting commercially any facility or resource of the corporation including any study, research or knowledge, or the practical application thereof, developed by or belonging, whether alone or in conjunction with any other person or body, to the corporation;
  - (f) seeking or encouraging gifts to the corporation or for the corporation’s purposes;
  - (g) any other object or purpose not inconsistent with this Act which the corporation considers to be appropriate in the circumstances.



- (2) The corporation, or a corporation or partnership of which the corporation is a member, or which is formed, participated in or managed by the corporation, may enter into any agreement or arrangement with a corporation or partnership the objects of which include 1 or more of the objects and purposes specified in subsection (1)(a) to (g), in respect of any of those lastmentioned objects and purposes.

### **136 Use of facilities and staff**

The corporation, in such circumstances and subject to such terms and conditions as it thinks fit, may contract or otherwise enter into an arrangement with any person or body for the use by the person or body of facilities and staff controlled by the corporation.

### **137 Corporations and partnerships to furnish returns etc.**

A corporation or partnership—

- (a) formed by the corporation pursuant to section 135; or
- (b) managed by the corporation; or
- (c) of which the corporation becomes a member;

shall furnish the corporation with such reports, returns and information relative to the affairs of the corporation or partnership as are from time to time required by the corporation.

### **138 Audit requirements**

For the purposes of the *Financial Administration and Audit Act 1977*, a corporation mentioned in section 137 of this Act is a statutory body within the meaning of that Act.

### **139 Restrictions on receiving etc. any wage, salary, fee etc.**

- (1) On the corporation becoming a member of a corporation or partnership pursuant to this Act, any remuneration, fee, allowance, amount by way of expenses or other moneys or payment received by the corporation or by an officer of the public service, acting on behalf of the corporation in

connection with such membership, shall not be retained by the corporation or such officer but shall be paid into the consolidated fund or, if it is in the nature of a recovery of expenditure, shall be paid into the fund to which it relates as provided in the *Financial Administration and Audit Act 1977*.

- (2) Subsection (1) shall not prohibit an officer of the public service from receiving, accepting or retaining an amount by way of expenses in connection with duties associated with such membership undertaken outside the ordinary office working hours of that officer.

#### **140 Disposal of property donated for school or other educational purposes**

- (1) This section applies to property devised, bequeathed or given to the corporation—
- (a) for the benefit of a specified school; or
  - (b) for the promotion of a specified branch of education.
- (2) This section applies if—
- (a) the property cannot be used in the way specified by the donor because—
    - (i) the specified school has been discontinued; or
    - (ii) the specified branch of education has been wholly or partly discontinued; or
  - (b) in the Minister's opinion, it is not practicable for the property to be used in the way specified by the donor.
- (3) The Minister may direct that the property—
- (a) be used for another purpose of the department; or
  - (b) be sold (freed and discharged from a trust to which it is subject) and the proceeds of the sale be used for another purpose of the department; or
  - (c) if the property is land—
    - (i) be given back to the donor; or
    - (ii) if the donor is dead—be given to a descendant of the donor.

**142 Provision for student hostels**

The Minister may provide (and it is hereby declared that the Minister has always had such power to so provide) grants, allowances and subsidies to persons or bodies providing and conducting hostels for the accommodation of students attending schools in receipt of subsidy in accordance with policies approved from time to time by the Minister for that purpose.

**142A Transportation assistance for students with disabilities**

- (1) The Minister may give assistance to eligible students relating to their transportation to or from school.
- (2) The ways that the Minister may give the assistance include the following—
  - (a) paying to the students or their parents all or part of the expenses of the transportation;
  - (b) making payments to the providers of the transportation;
  - (c) helping to organise or co-ordinate the transportation.
- (3) In this section—

*eligible student* means a student with a disability who attends a school in receipt of subsidy.

**142B Grants to other entities**

The Minister may give a grant to an entity for the purpose of—

- (a) helping children to achieve their best learning outcomes;  
or
- (b) promoting the re-engagement of children in education or training.

**143 Inspection of places etc.**

- (1) Subject to subsection (2), the Minister may cause—
  - (a) a place other than a State school or non-State school referred to in section 115(2)(a)(i) or a place where

instruction in some other manner is conducted pursuant to section 115(2)(a)(ii); or

- (b) any other institution preparing students for a junior or senior certificate;

to be inspected by a person authorised by the Minister in that behalf, if the Minister is in receipt of a complaint which—

- (c) is concerned with a matter which threatens or interferes with, or is likely to threaten or interfere with, the education of students at that place or institution, as the case may be; and
- (d) is not an anonymous complaint and which, in the opinion of the Minister, is not a frivolous or vexatious complaint.

- (2) Before causing an inspection to be made under subsection (1), the Minister must consult with and have regard to the views of—

- (a) in the case of a place of a kind referred to in subsection (1)(a)—the person who is or appears to the Minister to be in charge of that place; or
- (b) in the case of an institution of a kind referred to in subsection (1)(b)—the person who is or appears to the Minister to be in charge of that institution.

- (3) The authorised person referred to in subsection (1) shall prepare and transmit expeditiously to the Minister a report in connection with any inspection conducted under this section and shall transmit at the same time a copy of that report to the person mentioned in subsection (2)(a) or (b) as the case may be.

#### **144 Restriction on establishment of places for teaching overseas curriculum**

- (1) In this section—

*approved entity*, of a country, means an entity the Minister reasonably believes ordinarily authorises persons to teach primary or secondary curriculums of the country.

***criminal history***, of a person, means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, and—

- (a) despite sections 6 and 9<sup>21</sup> of that Act, includes a conviction of the person to which any of the sections applies; and
- (b) despite section 5<sup>22</sup> of that Act, includes a charge made against the person for an offence.

***international educational institution*** means an institution, facility, school, college or other place in Queensland that offers or proposes to offer an overseas curriculum or something that purports to be an overseas curriculum.

***overseas curriculum*** means a curriculum that is, or is a variation of, the whole or part of the primary or secondary curriculum of a foreign country.

- (2) A person must not establish or conduct an international educational institution without the approval of the Governor in Council.

Maximum penalty—10 penalty units.

- (2A) Before recommending that the Governor in Council give an approval to establish or conduct an international educational institution, the Minister must have regard to the financial viability of the institution.
- (2B) Subsection (2A) does not limit the matters the Minister may have regard to in deciding whether to make a recommendation.
- (3) The Governor in Council may impose conditions on the approval that the Governor in Council considers appropriate.
- (3A) Without limiting subsection (3), the following conditions apply to an approval for an international educational institution—

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21 *Criminal Law (Rehabilitation of Offenders) Act 1986*, sections 6 (Non-disclosure of convictions upon expiration of rehabilitation period) and 9 (Duty to disregard certain convictions)

22 *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 5 (Matter excluded from criminal history)

- (a) a person who teaches at the institution must be authorised, under a law, or by an approved entity, of the country in which the institution's overseas curriculum is ordinarily offered, to teach the curriculum;
  - (b) a person must not teach at the institution if the Minister considers that the person may pose a risk to the safety of children at the institution;
  - (c) a student who successfully completes the institution's overseas curriculum must be eligible to receive an academic award for its completion from an entity of the country in which the curriculum is ordinarily offered;
  - (d) the institution must have written guidelines about the appropriate conduct of its staff and students that accord with legislation applying in the State about the care or protection of children.
- (3B) The conditions of an approval, other than the conditions mentioned in subsection (3A), must be stated on the approval.
- (3C) For subsection (3A)(b), the Minister may ask the commissioner of the police service for a written report about the criminal history of a person who teaches at an international educational institution.
- (3D) If asked by the Minister, the commissioner of the police service must give the Minister a written report about the criminal history of the person, including the criminal history in the commissioner's possession or to which the commissioner has access.
- (4) A person establishing or conducting an international educational institution must comply with the conditions of the approval.
- Maximum penalty—10 penalty units.
- (5) The Minister may cause an international educational institution to be inspected by the executive director of the region in which the institution is situated at the intervals, and in the way, that the Minister determines.
- (6) The Minister may recover from the person who conducts an international educational institution the reasonable costs incurred in relation to an inspection.

- (7) Subject to an appropriation by the Parliament for the purpose, a regulation may be made with respect to the payment of allowances to persons enrolled in an international educational institution.
- (8) Subsection (7) does not apply to—
  - (a) a State educational institution; or
  - (b) a non-State school; or
  - (c) a place where instruction is received under section 115(2)(a).

#### **146 Forming or establishing associations, trusts and other arrangements**

- (1) The Minister may form or establish or participate in the forming or establishing of (and it is hereby declared that the Minister always had such power to so form, establish or participate) any association, trust or other such arrangement for any purpose which may seem directly or indirectly calculated to further education in any way whatsoever.
- (2) An association, trust or other arrangement formed or established under subsection (1) is a statutory body for the *Financial Administration and Audit Act 1977* and the *Statutory Bodies Financial Arrangements Act 1982*.
- (3) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the powers under this Act of the association, trust or other arrangement are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

#### **146A Obligation to report sexual abuse of student under 18 years attending State school**

- (1) Subsection (2) applies if a staff member of a State school (the *first person*) becomes aware, or reasonably suspects, that a student under 18 years attending the school has been sexually abused by someone else who is an employee of the school.
- (2) The first person must give a written report about the abuse, or suspected abuse, to the school's principal or the principal's supervisor—

- (a) immediately; and
- (b) if a regulation is in force under subsection (3), as provided under the regulation.

Maximum penalty—20 penalty units.

- (3) A regulation may prescribe the particulars the report must include.
- (4) A school's principal or a principal's supervisor must immediately give a copy of a report given to the principal or supervisor under subsection (2) to the chief executive's nominee.

Maximum penalty—20 penalty units.

- (5) The chief executive's nominee must immediately give a copy of a report given to the nominee under subsection (4) to a police officer.

Maximum penalty—20 penalty units.

- (6) A person who makes a report under subsection (2), or gives a copy of a report under subsection (4) or (5), is not liable, civilly, criminally or under an administrative process, for giving the information contained in the report to someone else.
- (7) Without limiting subsection (6)—
  - (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
  - (b) if the person would otherwise be required to maintain confidentiality about the given information under an Act, oath, rule of law or practice—the person does not contravene the requirement by giving the information.

### **146B Obligation to report sexual abuse of student under 18 years attending non-State school**

- (1) Subsection (2) applies if a staff member of a non-State school (the *first person*) becomes aware, or reasonably suspects, that a student under 18 years attending the school has been sexually abused by someone else who is an employee of the school.



- (2) The first person must give a written report about the abuse, or suspected abuse, to the school's principal or a director of the school's governing body—
- (a) immediately; and
  - (b) if a regulation is in force under subsection (3), as provided under the regulation.

Maximum penalty—20 penalty units.

- (3) A regulation may prescribe the particulars the report must include.
- (4) A non-State school's principal or a director of a non-State school's governing body must immediately give a copy of a report given to the principal or director under subsection (2) to a police officer.

Maximum penalty—20 penalty units.

- (5) A person who makes a report under subsection (2), or gives a copy of a report under subsection (4), is not liable, civilly, criminally or under an administrative process, for giving the information contained in the report to someone else.
- (6) Without limiting subsection (5)—
- (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
  - (b) if the person would otherwise be required to maintain confidentiality about the given information under an Act, oath, rule of law or practice—the person does not contravene the requirement by giving the information.

- (7) In this section—

**director**, of a non-State school's governing body, means—

- (a) if the governing body is a company under the Corporations Act—a person appointed as a director of the governing body; or
- (b) otherwise—a person who is, or is a member of, the executive or management entity, by whatever name called, of the governing body.

## **Part 10**                      **Appeals and miscellaneous matters**

### **Division 1AA**            **Appeals against directions under section 48F or 48O**

#### **146C**    **Definition for div 1AA**

In this division—

*court* means—

- (a) for an appeal relating to a child—the Childrens Court;  
or
- (b) otherwise—a Magistrates Court.

#### **146D**    **Who may appeal**

A person (the *appellant*) who is given a direction under section 48F or 48O<sup>23</sup> (the *original direction*) may appeal against the original direction to a court.<sup>24</sup>

#### **146E**    **Starting an appeal**

The notice of appeal under the *Uniform Civil Procedure Rules 1999* must be filed with the registrar of the court within 10 days after the appellant is given the original direction.

#### **146F**    **Hearing procedures**

- (1) In deciding the appeal, the court—
  - (a) has the same powers as the person who gave the original direction; and
  - (b) is not bound by the rules of evidence; and

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23 Section 48F (Prohibition from entering premises) or 48O (Prohibition from entering premises)

24 The *Uniform Civil Procedure Rules 1999* contains provisions about appeals to a Magistrates Court.

- (c) must comply with natural justice; and
  - (d) must allow a child to be represented by an associated adult; and
  - (e) may not make an order for costs, other than for filing fees.
- (2) To remove any doubt, it is declared that the *Childrens Court Act 1992*, section 20<sup>25</sup> applies if the appeal is heard by the Childrens Court.
- (3) The appeal is by way of rehearing, unaffected by the original direction, on the material before the person who gave the original direction and any further evidence allowed by the court.
- (4) The respondent to the appeal may be represented by a lawyer at the hearing of the appeal only if the appellant is also represented by a lawyer.
- (5) In this section—
- associated adult*, for a child, means an adult who—
- (a) is the child’s parent, step-parent or guardian; or
  - (b) is the child’s spouse; or
  - (c) has parental rights and duties for the child; or
  - (d) might reasonably be expected to have authority over the child’s conduct.

### **146G Powers of court on appeal**

- (1) In deciding the appeal, the court may—
- (a) confirm the original direction; or
  - (b) amend the original direction; or
  - (c) substitute another direction for the original direction; or
  - (d) set aside the original direction and return the issue to the person who gave the original direction with the directions the court considers appropriate.

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<sup>25</sup> *Childrens Court Act 1992*, section 20 (Who may be present at a proceeding)

- (2) If the court amends the original direction or substitutes another direction for the original direction, the amended or substituted direction is, for this Act (other than this division), taken to be the direction of the person who gave the original direction.

## **Division 1                      Appeals against decisions under section 113, 130 or 132**

### **147      Definitions for div 1**

In this division—

*aggrieved person* means—

- (a) a person who made a submission to the Minister about the person's removal from an association and who is aggrieved by the Minister's decision under section 113; or
- (b) a student aggrieved by the decision of a principal's supervisor under section 130; or
- (c) a student aggrieved by the chief executive's decision under section 132.<sup>26</sup>

*court* means a Magistrates Court constituted by a Magistrate.

### **148      Appeals**

- (1) An aggrieved person may appeal to a court against the decision about which the person is aggrieved.
- (2) The appeal is to be started, by filing a notice of appeal in the court, within 28 days after the aggrieved person receives notice of the decision appealed against.
- (3) The appeal is by way of a rehearing on the material that was before the person whose decision is appealed against.
- (4) The court may—

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<sup>26</sup> Section 113 (Dealing with submissions against removal), section 130 (Dealing with submissions against principal's decision), section 132 (Chief executive must consider and decide application for further semesters)

- (a) allow the appeal and make any order the court considers appropriate; or
- (b) dismiss the appeal.

## **Division 2                      Miscellaneous matters**

### **149      Delegation by chief executive**

- (1) The chief executive may delegate the chief executive's powers under this Act, other than part 4, divisions 1 to 6,<sup>27</sup> to an appropriately qualified officer of the department.
- (2) In this section—

*appropriately qualified* includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

a person's classification level in the department

### **150      Evidentiary provisions**

In any proceeding for the purposes of this Act, a certificate purporting to be signed by the Minister certifying—

- (a) that a school is or is not a non-State school for the purposes of this Act; or
- (b) that a person is or is not person with a disability for the purposes of this Act; or
- (c) that a person is or is not a student for the purposes of this Act;

is evidence of the matters contained in the certificate.

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<sup>27</sup> Part 4 (Good order and management of State educational institutions and non-State Schools), divisions 1 (Behaviour management plans), 2 (Suspension of students), 3 (Exclusion of students by supervisor), 3A (Exclusion of students by chief executive), 3B (Review of decisions about exclusion), 4 (Cancellation of enrolment of students above compulsory school age), 5 (Miscellaneous provisions about suspensions, exclusions and cancellations) and 6 (Offences)

**150A Allegation of false or misleading information or document**

In any proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading document, it is enough for a charge to state that the information or document was, without specifying which, 'false or misleading'.

**151 Approval of forms**

The chief executive may approve forms for use under this Act.

**152 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made with respect to the following matters—
  - (a) the matters for which fees are payable under this Act, the amounts of the fees, the persons who are liable to pay fees, when the fees are payable, and the recovery of any unpaid amount of fees;
  - (b) the management, administration and control of the operations of a State educational institution;
  - (c) the dissolution of an association or school council;
  - (d) prescribing offences for contraventions of a regulation and fixing a maximum penalty of 10 penalty units for a contravention.

## **Part 11                      Transitional provisions**

### **Division 1                      Transitional provisions before Education and Other Legislation Amendment Act 1999**

#### **153      References to Education Act 1964**

A reference in an Act or document to the *Education Act 1964* is taken to be a reference to this Act.

#### **156      Existing resolutions of associations about financial year**

A valid resolution of an association about the period that constitutes its financial year and in effect immediately before the commencement of this section continues to have effect until a resolution is made by the association under section 94.<sup>28</sup>

#### **157      Removal of officers or members of association**

- (1) This section applies if provisions of an association's constitution in effect immediately before the commencement of this section provided for the removal of officers or members of the association.
- (2) The provisions do not have effect.

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28      Section 94 (Financial year)

## **Division 2                      Transitional and validation provisions for Education and Other Legislation Amendment Act 1999**

### **158      Transitional provision about existing elected members of school councils**

(1) Subject to sections 56, 57 and 58,<sup>29</sup> an existing elected member continues to be a member until the end of the term for which the member was elected.

(2) In this section—

*existing elected member* means a person who, immediately before the commencement of this section, was an elected parent member or an elected staff member.

### **159      Transitional provision about guidelines**

(1) The 1997 guidelines are taken to be guidelines issued by the Minister under section 134A(1).

(2) To remove any doubt, it is declared that nothing in this section limits the power of the Minister to issue guidelines under section 134A(1).

(3) In this section—

*1997 guidelines* means the document called ‘Queensland Non–State Schools Planning Assessment of Individuals Applications’ approved by the Minister on 26 September 1997 and amendments to the document approved by the Minister before the commencement<sup>30</sup> of this section.<sup>31</sup>

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29 Sections 56 (Terms of office for elected and appointed members), 57 (Ineligibility on conviction of indictable offence) and 58 (Appointment not affected by other laws restricting employment)

30 Section 159 commenced 1 January 2000.

31 A copy of the document is available from the department’s central office at 30 Mary Street, Brisbane and its district offices.



**160 Validation of certain decisions made by Minister**

- (1) This section applies if, before the commencement of this section—
  - (a) a person proposing to establish, or significantly modify, a non-State school applied to the Minister for an approval to establish, or significantly modify, the school; and
  - (b) the application would have been an application for a planning approval for the school if the application had been made after the commencement; and
  - (c) the Minister decided to—
    - (i) refuse the application; or
    - (ii) grant the application, with or without conditions relating to the facilities for, or instruction in, preschool, primary, secondary or special education at the school.
- (2) The Minister's decision is taken to be, and always to have been, validly made to the extent it would be validly made under section 134B after the commencement of this section.<sup>32</sup>

**161 Validation of conditions imposed on non-State school**

- (1) This section applies if, before the commencement of this section,<sup>33</sup> the Minister—
  - (a) made a decision (a *section 160 decision*) mentioned in section 160(1)(c)(ii) for a school, subject to conditions relating to the facilities for, or instruction in, preschool, primary, secondary or special education at the school; and
  - (b) subsequently made a decision (a *section 2(2) decision*) for section 2(2) that results in the school being a non-State school for a type of education.
- (2) The section 2(2) decision is subject to any continuing conditions about facilities or instruction imposed on the

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<sup>32</sup> Section 160 commenced 1 January 2000.

<sup>33</sup> Section 161 commenced 1 January 2000.

section 160 decision as if the decision had been made after the commencement of section 2A(4).

### **Division 3                      Transitional and validation provisions for Education (Accreditation of Non-State Schools) Act 2001**

#### **162      Definitions for div 3**

In this division—

*2000 guidelines* means the document called ‘Planning Guidelines 2000’ approved by the Minister on 6 December 2000.

*commencement* means the commencement of section 164.<sup>34</sup>

#### **163      Sections in div 2 ceasing to have effect**

On the commencement, sections 159, 160 and 161 cease to have effect.

#### **164      Transitional provision about guidelines**

- (1) The previous guidelines are taken—
  - (a) to be guidelines issued under section 134A; and
  - (b) to have effect as if they were issued under section 134A.
- (2) To remove doubt, it is declared that nothing in this section limits the Minister’s power to issue guidelines under section 134A.

- (3) In this section—

*previous guidelines* means the following—

- (a) the document called ‘Queensland Non–State Schools Planning Assessment of Individual Applications’ approved by the Minister on 26 September 1997;

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<sup>34</sup> Section 164 commenced 21 September 2001.

- (b) the document called ‘Queensland Non–State Schools Planning Assessment of Individual Applications’ approved by the Minister on 23 December 1999;
- (c) the document called ‘Planning Guidelines 2000’ approved by the Minister on 6 December 2000 and amendments to the document approved by the Minister before the commencement.

### **165 Validation of decisions made by Minister**

- (1) This section applies if, before the commencement—
  - (a) a person proposing to establish, or significantly modify, a non-State school applied to the Minister for an approval to establish, or significantly modify, the school; and
  - (b) the Minister decided to—
    - (i) refuse to grant the application; or
    - (ii) grant the application, without conditions; or
    - (iii) grant the application, with conditions to which the approval was subject.
- (2) If the application would have been an application for a planning approval for the school had the application been made after the commencement, the Minister’s decision is taken to be, and always to have been, validly made to the extent it would be validly made under section 134B after the commencement.
- (3) If the Minister’s decision was to grant the application, any other decision of or payment by the Minister, made or purportedly made under section 2(2) or 141 in relation to the school, is taken to be, and always to have been, validly made.
- (4) Also, the Minister’s decision is taken to be, and always to have been, validly made if the decision was made in accordance with relevant criteria adopted by the Minister because there was doubt about the validity of the 2000 guidelines.

**166 Validation of conditions imposed on non-State school**

- (1) This section applies if, before the commencement, the Minister—
  - (a) made a decision mentioned in section 165(1)(b)(iii) for a school (the *section 165 decision*); and
  - (b) subsequently made a decision for section 2(2) that resulted in the school being a non-State school for a type of education (the *section 2(2) decision*).
- (2) The section 2(2) decision is subject to any continuing conditions imposed under the section 165 decision as if the section 165 decision had been made after the commencement.

**Division 4 Transitional provisions for Youth Participation in Education and Training Act 2003****166A Definitions for div 4**

In this division—

*commencement day*, for a provision in this division, means the day the provision commences.

*dispensation* includes a provisional dispensation.

**166B Existing dispensations**

- (1) This section applies to a dispensation granted by the Minister under section 115 that was in force immediately before the commencement day.
- (2) The dispensation continues in force, as if it had been granted by the chief executive, until it expires or otherwise ends under this Act.

**166C Existing applications for a dispensation**

- (1) This section applies to an application for a dispensation made to the Minister before the commencement day that, at the commencement day, had not been finally dealt with.

- (2) The chief executive may continue to deal with the application as if it had been made to the chief executive.

**166D Proceedings for an offence against s 118**

- (1) Section 118(2A) applies only to proceedings started on or after the commencement day.
- (2) Section 118(3)(d), as in force immediately before the commencement day, continues to apply for a proceeding for an offence alleged to have been committed before the commencement day.

**Division 5 Transitional provisions for  
Education Legislation Amendment  
Act 2004****166F Requirement to give financial data—2002 and 2003**

- (1) This section applies to a non-State school in receipt of subsidy that was in operation for the whole of 2003.
- (2) For section 134AB(1), the governing body of the school must on or before 14 February 2005 give the Minister financial data, for the school, relating to 2003.
- (3) Also, for section 134AB(1), if the school was in operation for the whole of 2002, the governing body of the school must on or before 14 February 2005 give the Minister financial data, for the school, relating to 2002.
- (4) The data must be provided in the approved form.
- (5) The source of the data must be the audited financial statements for the school's governing body for the relevant year.

**166G Further information or documents relating to financial data**

For this division, section 134AC applies to the governing body of a school as if a reference in that section to section 134AB were a reference to section 166F.

**166H False or misleading information or documents**

For this division, section 134AD applies to the governing body of a school as if—

- (a) a reference in that section to section 134AB were a reference to section 166F; and
- (b) a reference in that section to section 134AC were a reference to section 134AC, as applied by 166G.

**166I Confidentiality of financial data**

For this division, section 134AE applies to a person as if—

- (a) a reference in that section to section 134AB were a reference to section 166F; and
- (b) a reference in that section to section 134AC were a reference to section 134AC, as applied by 166G.

**166J Further amendment, or repeal, of Education (General Provisions) Regulation 2000**

The amendment of the *Education (General Provisions) Regulation 2000* by the *Education Legislation Amendment Act 2004* does not affect the power of the Governor in Council to further amend that regulation or to repeal it.

## **Part 12 Transitional provision for compulsory education**

**167 Transitional provision for compulsory education**

- (1) A parent of a child of compulsory school age is taken to comply with section 114 if the child is enrolled at a prescribed State school or non-State school, and attending the school, on every school day, for a preparatory trial year of instruction.

(2) In this section—

*preparatory trial year of instruction* means a program of instruction under a preschool guideline, being developed under the *Education (Queensland Studies Authority) Act 2002*, for preparing a child for primary education.

*prescribed State school or non-State school* means a State school or non-State school prescribed under a regulation.

## Part 13 Validation provisions for home schooling dispensation

### 168 Definitions for pt 13

In this part—

*commencement* means commencement of this section.

*guidelines* means the guidelines, approved under this Act, stated in the order in council published in the gazette on 5 August 1989 at page 2 993.

### 169 Validation of guidelines

- (1) The guidelines are, and always have been, valid.
- (2) Without limiting subsection (1), an amount charged and collected under section 5(c)(ii) of the guidelines before the commencement is taken to have been validly charged and collected.

### 170 Amendment of guidelines

- (1) The guidelines are amended by—
  - (a) in section 5(c)(ii) of the guidelines, omitting all words from ‘and submit’ to ‘Art’; and
  - (b) omitting section 6 of the guidelines; and
  - (c) in section 7 of the guidelines, omitting the words ‘and the Regional Director’.

- (2) Without limiting subsection (1)(a), an amount payable under section 5(c)(ii) of the guidelines, but not paid before the commencement, is no longer payable.
- (3) The amendment of the guidelines in this section does not affect the power of the Governor in Council to approve a further amendment, or revoke the Governor in Council's approval, of the guidelines.



## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 29 November 2004. Future amendments of the Education (General Provisions) Act 1989 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Reprint date
1	to 1994 Act No. 15	10 May 1994	20 July 1994
2	to 1995 Act No. 20	23 June 1995	4 July 1995
3	to 1996 Act No. 71	7 April 1997	9 May 1997
3A	to 1996 Act No. 71	1 June 1997	28 July 1997
4 rv	to 1997 Act No. 83	1 January 1998	6 February 1998
4A rv	to 1997 Act No. 83	7 December 1998	15 December 1998
4B rv	to 1999 Act No. 81	1 January 2000	11 January 2000
4C rv	to 2000 Act No. 5	1 July 2000	14 July 2000
4D rv	to 2000 Act No. 60	2 February 2001	2 February 2001
4E rv	to 2001 Act No. 45	15 July 2001	13 August 2001
4F rv	to 2001 Act No. 60	21 September 2001	28 September 2001
4G rv	to 2001 Act No. 60	1 January 2002	2 January 2002

(Column discontinued)

Reprint No.	Amendments included	Effective	Notes
4H 2rv	to 2003 Act No. 72	1 July 2002	R4H 2rv withdrawn, see R5 rv
5 rv	to 2003 Act No. 72	1 July 2002	
5A rv	to 2003 Act No. 72	13 December 2002	
5B	to 2003 Act No. 72	13 October 2003	
5C	to 2003 Act No. 89	18 November 2003	
5D rv	to 2003 Act No. 89	1 January 2004	
5E	to 2003 Act No. 89	19 April 2004	
5F	to 2003 Act No. 89	24 June 2004	R5F withdrawn, see R6
6	to 2003 Act No. 89	24 June 2004	
6A	to 2004 Act No. 44	18 November 2004	
6B	to 2004 Act No. 53	29 November 2004	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Changed names and titles	1, 2
Obsolete and redundant provisions	1
Renumbered provisions	1, 4

## 6 List of legislation

### **Education (General Provisions) Act 1989 No. 30**

date of assent 28 April 1989

ss 1–2 commenced on date of assent

remaining provisions commenced 5 August 1989 (proc pubd gaz 5 August 1989 p 3002)

amending legislation—

### **Education (General Provisions) Act Amendment Act 1989 No. 65**

date of assent 14 June 1989

commenced on date of assent

### **Griffith University and Queensland Conservatorium of Music Amalgamation and Miscellaneous Amendments Act 1991 No. 23 pts 1, 6, s 20 sch**

date of assent 5 June 1991

s 20 sch commenced 16 December 1994 (1994 SL No. 457)

remaining provisions commenced on date of assent (see s 2(1))

### **Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 1**

date of assent 17 December 1991

commenced on date of assent

### **Higher Education (General Provisions) Act 1993 No. 12 ss 1–2, 20**

date of assent 28 May 1993

ss 1–2 commenced on date of assent  
 remaining provisions commenced 15 March 1996 (1996 SL No. 45)

**Statute Law (Miscellaneous Provisions) Act 1993 No. 32 ss 1–3 sch 1**

date of assent 3 June 1993  
 commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 1**

date of assent 10 May 1994  
 commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2**

date of assent 1 December 1994  
 commenced on date of assent

**Education Legislation Amendment Act 1995 No. 20 pts 1–2, s 3 sch 1**

date of assent 11 April 1995  
 s 3 sch 1 item 2 commenced 23 June 1995 (see s 2(2), 1995 SL No. 198)  
 remaining provisions commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
 commenced on date of assent

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch**

date of assent 20 November 1996  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 June 1997 (1997 SL No. 128)

**Education (General Provisions) Amendment Act 1996 No. 64**

date of assent 9 December 1996  
 ss 1–2 commenced on date of assent  
 ss 3, 5 (so far as it omits ss 26–27), 6 (so far as it inserts new pt 4 div 6), 7–9  
 commenced 28 January 1997 (1997 SL No. 3)  
 remaining provisions commenced 7 April 1997 (1997 SL No. 83)

**Education (School Curriculum P–10) Act 1996 No. 65 ss 1–2, 52 sch 2**

date of assent 9 December 1996  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 February 1997 (1997 SL No. 5)

**Education (Overseas Students) Act 1996 No. 71 ss 1–2, pt 6**

date of assent 9 December 1996  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 7 December 1998 (automatic commencement  
 under AIA s 15DA(2)) (see also 1997 SL No. 350 s 2(2))

**Education and Other Legislation Amendment Act 1997 No. 83 pts 1, 5**

date of assent 5 December 1997  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 January 1998 (1997 SL No. 464)

**Education and Other Legislation Amendment Act 1999 No. 81 pts 1, 3**

date of assent 14 December 1999

ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 January 2000 (see s 2)

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3**

date of assent 23 March 2000  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

**Commission for Children and Young People Act 2000 No. 60 ss 1–2, 175 sch 3**

date of assent 24 November 2000  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 2 February 2001 (2001 SL No. 1)

**Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3**

date of assent 28 June 2001  
 ss 1–2 commenced on date of assent  
 sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)  
 remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

**Education (Accreditation of Non-State Schools) Act 2001 No. 60 ss 1–2(1)(a), (c), (2), 218–219 schs 1–2**

date of assent 21 September 2001  
 ss 1–2, 219 sch 2 commenced on date of assent (see s 2(1)(a), (c))  
 remaining provisions commenced 1 January 2002 (see s 2(2))

**Education (Queensland Studies Authority) Act 2002 No. 1 ss 1–2, 90 sch 1**

date of assent 28 February 2002  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 July 2002 (2002 SL No. 154)

**Public Records Act 2002 No. 11 ss 1, 2(2), 62 sch 1**

date of assent 24 April 2002  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 July 2002 (2002 SL No. 115)

**Education (Miscellaneous Amendments) Act 2002 No. 75 s 1, pt 4, s 74 sch**

date of assent 13 December 2002  
 commenced on date of assent

**Youth Participation in Education and Training Act 2003 No. 62 ss 1–2, pt 7, sch 1**

date of assent 13 October 2003  
 ss 1–2, pt 7 div 1, s 83 commenced on date of assent (see s 2(1))  
 pt 7 div 2 (other than s 83), sch 1 commenced 1 January 2004 (2003 SL No. 278)  
 remaining provisions commence 1 January 2006 (see s 2(3))

**Grammar Schools and Other Legislation Amendment Act 2003 No. 72 ss 1–2(1), pt 4**

date of assent 22 October 2003  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 July 2002 (see s 2(1))

**Education and Other Legislation (Student Protection) Amendment Act 2003 No. 88  
pts 1, 4**

date of assent 18 November 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 19 April 2004 (2003 SL No. 345)

**Education (General Provisions) Amendment Act 2003 No. 89**

date of assent 18 November 2003

ss 1–2, 9A, 13 commenced on date of assent

remaining provisions commenced 24 June 2004 (2004 SL No. 44)

**Education Legislation Amendment Act 2004 No. 44 ss 1–2(1), pt 3**

date of assent 18 November 2004

ss 1–2 commenced on date of assent

ss 21 (other than to the extent it ins def “financial data” and “non-State school in receipt of subsidy”), 22–24 commence 1 January 2005 (see s 2(1))

remaining provisions commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 2004 No. 53**

date of assent 29 November 2004

commenced on date of assent

## 7 List of annotations

**This reprint has been renumbered—see table of renumbered provisions in endnote 9.****Title** amd R1 (see RA s 37)**PART 1—PRELIMINARY****Interpretation**

- s 2** prev s 2 om R2 (see RA s 37)  
 pres s 2 amd 1993 No. 32 s 3 sch 1; 1997 No. 83 s 10(3); 1999 No. 81 s 16(3);  
 2001 No. 60 s 218 sch 1  
 def “**accepted representations**” ins 2001 No. 60 s 218 sch 1  
 def “**age of compulsory attendance**” om 2003 No. 62 s 66(1)  
 def “**alternative association member**” ins 1997 No. 83 s 10(2)  
 def “**annual report**” ins 1997 No. 83 s 10(2)  
 def “**appellant**” ins 2003 No. 89 s 4  
 def “**appointed member**” ins 1997 No. 83 s 10(2)  
 amd 1999 No. 81 s 16(2)  
 def “**approved form**” ins 1995 No. 58 s 4 sch 1  
 def “**at**” ins 2003 No. 89 s 4  
 def “**basic allocation**” ins 1997 No. 83 s 10(2)  
 def “**board**” ins 2001 No. 60 s 218 sch 1  
 def “**cancel**” ins 1996 No. 64 s 4(2)  
 amd 2003 No. 62 s 65 sch 1  
 def “**casual vacancy**” ins 1997 No. 83 s 10(2)  
 def “**company**” om 1993 No. 32 s 3 sch 1  
 def “**compulsory school age**” ins 2003 No. 62 s 66(2)

- def **“continuing student”** ins 1997 No. 83 s 10(2)  
om 1999 No. 81 s 16(1)
- def **“coopted student member”** ins 1997 No. 83 s 10(2)  
amd 1999 No. 81 s 16(2)
- def **“council”** ins 1995 No. 20 s 4  
om 1996 No. 65 s 52 sch 2
- def **“Department”** om 1991 No. 97 s 3 sch 1
- def **“Director-General”** sub 1993 No. 32 s 3 sch 1  
om R1 (see RA s 39)
- def **“disabled person”** om 1997 No. 83 s 10(1)
- def **“early childhood education”** ins 1995 No. 20 s 4  
om 1996 No. 65 s 52 sch 2
- def **“educational program”** ins 2003 No. 62 s 66(2)
- def **“Education Office gazette”** amd 1993 No. 32 s 3 sch 1
- def **“elected member”** ins 1997 No. 83 s 10(2)
- def **“elected parent member”** ins 1997 No. 83 s 10(2)  
amd 1999 No. 81 s 16(2)
- def **“elected staff member”** ins 1997 No. 83 s 10(2)  
amd 1999 No. 81 s 16(2)
- def **“elected student member”** ins 1997 No. 83 s 10(2)  
amd 1999 No. 81 s 16(2)
- def **“employee”** ins 2003 No. 88 s 13(2)
- def **“exclude”** ins 1996 No. 64 s 4(2)
- def **“excluded person”** ins 1996 No. 64 s 4(2)  
sub 2003 No. 62 s 66(1)–(2)
- def **“executive director”** ins 1991 No. 23 s 29(a)  
om 1996 No. 64 s 4(1)
- def **“extra semester”** ins 1997 No. 83 s 10(2)
- def **“financial data”** ins 2004 No. 44 s 21
- def **“further semester”** ins 1997 No. 83 s 10(2)
- def **“indictable offence”** ins 2002 No. 75 s 74 sch
- def **“materials”** sub 1996 No. 65 s 52 sch 2
- def **“Minister”** om 1991 No. 97 s 3 sch 1
- def **“model constitution”** ins 1997 No. 83 s 10(2)
- def **“non-State school”** sub 2001 No. 60 s 218 sch 1
- def **“non-State school in receipt of subsidy”** ins 2004 No. 44 s 21
- def **“notice recommending exclusion”** ins 1996 No. 64 s 4(2)
- def **“official member”** ins 1997 No. 83 s 10(2)
- def **“open learning”** ins 1995 No. 20 s 4  
om 1996 No. 65 s 52 sch 2
- def **“original direction”** ins 2003 No. 89 s 4
- def **“person under a cancellation”** ins 1996 No. 64 s 4(2)
- def **“person with a disability”** ins 1997 No. 83 s 10(2)
- def **“planning approval”** ins 1999 No. 81 s 16(1A)  
om 2001 No. 60 s 218 sch 1
- def **“planning guidelines”** ins 1999 No. 81 s 16(1A)  
om 2001 No. 60 s 218 sch 1
- def **“practising teacher”** ins 1995 No. 20 s 4  
om 1996 No. 65 s 52 sch 2
- def **“premises”** ins 2003 No. 89 s 4

- def “**preschool education**” sub 1997 No. 83 s 10  
 amd 2003 No. 62 s 65 sch 1
- def “**principal**” sub 1996 No. 64 s 4; 2003 No. 88 s 13
- def “**principal’s supervisor**” ins 1997 No. 83 s 10(2)
- def “**proponent**” ins 1999 No. 81 s 16(1A)  
 om 2001 No. 60 s 218 sch 1; 2001 No. 60 s 219 sch 2 (amdt could not be given effect)
- def “**reasonably satisfied**” ins 1996 No. 64 s 4(2)
- def “**reasonably suspects**” ins 2003 No. 88 s 13(2)
- def “**regional director**” om 1991 No. 23 s 29(b)
- def “**registered teacher**” ins 2003 No. 62 s 66(2)
- def “**remaining allocation**” ins 1997 No. 83 s 10(2)
- def “**school in receipt of subsidy**” ins 2003 No. 72 s 29 (retro)
- def “**school of distance education**” ins 2003 No. 62 s 66(2)
- def “**school year**” ins 1997 No. 83 s 10(2)
- def “**semester**” ins 1997 No. 83 s 10(2)
- def “**semester 1**” ins 1997 No. 83 s 10(2)
- def “**semester 2**” ins 1997 No. 83 s 10(2)
- def “**show cause notice**” ins 2001 No. 60 s 218 sch 1
- def “**show cause period**” ins 2001 No. 60 s 218 sch 1
- def “**significantly modifying**” ins 1999 No. 81 s 16(1A)  
 amd 2001 No. 60 s 219 sch 2  
 om 2001 No. 60 s 218 sch 1
- def “**special education**” sub 1997 No. 83 s 10
- def “**special education developmental centre**” ins 1997 No. 83 s 10(2)
- def “**State educational institution**” amd 1993 No. 32 s 3 sch 1
- def “**State preschool centre**” sub 1997 No. 83 s 10
- def “**State school**” amd 1993 No. 32 s 3 sch 1  
 sub 1997 No. 83 s 10
- def “**suspend**” ins 1996 No. 64 s 4(2)
- def “**teacher**” ins 1996 No. 64 s 4(2)  
 amd 2003 No. 62 s 66(3)
- def “**tertiary education**” ins 1995 No. 20 s 4  
 om 1996 No. 65 s 52 sch 2
- def “**Vocational Education Minister**” ins 1995 No. 20 s 4  
 om 1996 No. 65 s 52 sch 2

**Decision about non-State school**

- s 2A ins 1999 No. 81 s 16A  
 amd 2001 No. 60 s 219 sch 2  
 om 2001 No. 60 s 218 sch 1

**Definitions relating to special education**

- s 3 ins 1997 No. 83 s 11  
 amd 2003 No. 62 s 65 sch 1

**References to student when student is a minor or under other legal disability**

- s 4 ins 1997 No. 83 s 11  
 amd 2003 No. 89 s 5

**Meaning of “basic allocation”, “remaining allocation” etc.**

- s 5 ins 1997 No. 83 s 11



**PART 2—CORPORATION OF THE MINISTER AND GENERAL POWERS OF THE MINISTER****The corporation of the Minister**

s 6           amd 1993 No. 32 s 3 sch 1

**Excluded matter for Corporations legislation**

s 6A          ins 2001 No. 45 s 29 sch 3

**Corporation of the Minister is statutory body**

s 7           ins 1996 No. 54 s 9 sch

**Power of Minister to be member of committees etc.**

s 9           amd 1997 No. 83 s 12

**Imposition, collection and disposal of fees, etc., and other moneys**

s 11          prev s 11 om 1994 No. 15 s 3 sch 1

**Delegation by Minister**

s 13          sub 1991 No. 97 s 3 sch 1

amd 1994 No. 15 s 3 sch 1; 1995 No. 20 s 3 sch 1; 1997 No. 83 s 13; 2002 No. 75 s 74 sch

**PART 3—STATE EDUCATIONAL INSTITUTIONS****Provision of State education**

s 14          amd 1994 No. 15 s 3 sch 1; 1997 No. 83 s 14; 2003 No. 62 s 67

**Special education**

s 15          ins 1997 No. 83 s 15

amd 2003 No. 62 s 65 sch 1

**Power to establish State schools**

s 16          prev s 16 om 1993 No. 32 s 3 sch 1

pres s 16 sub 1994 No. 15 s 3 sch 1

**Power to establish other ways of educational instruction**

s 17          prev s 17 om 1993 No. 32 s 3 sch 1

pres s 17 sub 1994 No. 15 s 3 sch 1

**Establishment of certain centres, student hostels, student residential colleges and other State educational institutions**

prov hdg    amd 1999 No. 81 s 17

s 18          sub 1993 No. 32 s 3 sch 1

amd 1997 No. 83 s 16

**Curriculum framework for State educational institutions**

s 19          sub 2002 No. 1 s 90 sch 1

**Development and revision of 1–12 syllabuses and preschool guidelines**

s 19A       ins 2002 No. 1 s 90 sch 1

**Implementation of syllabus, course or preschool guideline at a State educational institution**

prov hdg    amd 2003 No. 62 s 68(1)

s 19B       ins 2002 No. 1 s 90 sch 1

amd 2003 No. 62 s 68(2)–(4)

**Direction by Minister about tests**

s 19C ins 2002 No. 1 s 90 sch 1

**Use of State educational institutions**

s 20 amd 1994 No. 15 s 3 sch 1; 1997 No. 83 s 17

**Investigation of complaint**

s 22 amd 1994 No. 15 s 3 sch 1

**State educational institutions may be discontinued**

s 23 amd 1997 No. 83 s 18

**Suspension from attendance**s 24 prev s 24 sub 1989 No. 65 s 3  
pres s 24 amd 1991 No. 23 s 30  
om 1996 No. 64 s 5**School records and reports**s 25 prev s 25 sub 1989 No. 65 s 4  
amd 1991 No. 23 s 31  
om 1996 No. 64 s 5  
pres s 25 amd 1994 No. 15 s 3 sch 1; 1997 No. 83 s 19; 2000 No. 60 s 175  
sch 3**Religious instruction in school hours**s 26 prev s 26 om 1996 No. 64 s 5  
pres s 26 amd 1991 No. 97 s 3 sch 1; 1995 No. 20 s 3 sch 1; 1999 No. 81 s 18**PART 4—GOOD ORDER AND MANAGEMENT OF STATE EDUCATIONAL INSTITUTIONS AND NON-STATE SCHOOLS**pt hdg ins 1996 No. 64 s 6  
amd 2004 No. 53 s 2 sch**Division 1AA—Preliminary**

div 1AA (s 26A) ins 2003 No. 89 s 6

**Division 1—Behaviour management plans**

div hdg ins 1996 No. 64 s 6

**Principal is responsible for behaviour management plans**s 27 prev s 27 om 1996 No. 64 s 5  
pres s 27 ins 1996 No. 64 s 6**Division 2—Suspension of students**

div hdg ins 1996 No. 64 s 6

**Grounds for suspension of student**

s 28 ins 1996 No. 64 s 6

**Suspension of student**s 29 prev s 29 om 1997 No. 83 s 20  
pres s 29 ins 1996 No. 64 s 6**Placement of certain students in alternative education program**

s 30 ins 1996 No. 64 s 6

**Submissions against suspensions for more than 5 school days**

**s 31** prev s 31 om 1997 No. 83 s 22  
pres s 31 ins 1996 No. 64 s 6

**Dealing with submissions against suspensions**

**s 32** prev s 32 om 1994 No. 15 s 3 sch 1  
pres s 32 ins 1996 No. 64 s 6  
amd 1999 No. 81 s 19

**Division 3—Exclusion of students by supervisor**

**div hdg** amd 2003 No. 62 s 69

**Grounds for exclusion of student by supervisor**

**s 33 prov hdg** amd 2003 No. 62 s 70

**Exclusion of student by supervisor**

**prov hdg** amd 2003 No. 62 s 71(1)  
**s 36** amd 1999 No. 81 s 20; 2003 No. 62 s 71(2)

**Division 3A—Exclusion of students by chief executive**

**div 3A (ss 36A–36E)** ins 2003 No. 62 s 72

**Division 3B—Review of decisions about exclusion**

**div hdg** ins 2003 No. 62 s 72

**Submissions against exclusions**

**s 37** amd 2003 No. 62 s 73

**Dealing with submissions against exclusions**

**s 38** amd 1999 No. 81 s 21; 2003 No. 62 s 74

**Periodic review of decision to exclude under div 3A**

**s 38A** ins 2003 No. 62 s 75

**Division 4—Cancellation of enrolment of students above compulsory school age**

**div hdg** amd 2003 No. 62 s 65 sch 1

**Grounds for cancelling enrolment of student more than compulsory school age**

**prov hdg** amd 2003 No. 62 s 65 sch 1  
**s 39** amd 2003 No. 62 s 65 sch 1

**Cancellation of student's enrolment**

**s 40** amd 2003 No. 62 s 65 sch 1

**Dealing with submissions against cancellations of enrolment**

**s 42** amd 1999 No. 81 s 22

**When decisions take effect**

**s 46** sub 1999 No. 81 s 23

**Wilful disturbance**

**s 47** amd 2003 No. 89 s 7

**Trespass**

**s 48** amd 2003 No. 89 s 8

**Division 7—Directions and orders about conduct or movement at, or entry to, premises of State educational institutions****div hdg** ins 2003 No. 89 s 9**Subdivision 1—Preliminary****sdiv 1 (s 48A)** ins 2003 No. 89 s 9**Subdivision 2—Powers relating to name and address****sdiv 2 (s 48B)** ins 2003 No. 89 s 9**Subdivision 3—Directions about conduct or movement at premises of State educational institutions****sdiv 3 (ss 48C–48D)** ins 2003 No. 89 s 9**Subdivision 4—Directions to leave and not re-enter premises of State educational institutions for 24 hours****sdiv 4 (s 48E)** ins 2003 No. 89 s 9**Subdivision 5—Prohibition from entering premises of State educational institutions for up to 60 days****sdiv 5 (s 48F)** ins 2003 No. 89 s 9**Subdivision 6—Prohibition from entering premises of State educational institutions for more than 60 days, but not more than 1 year****sdiv 6 (ss 48G–48H)** ins 2003 No. 89 s 9**Division 8—Directions and orders about conduct or movement at, or entry to, premises of non-State schools****div hdg** ins 2003 No. 89 s 9**Subdivision 1—Preliminary****sdiv 1 (s 48I)** ins 2003 No. 89 s 9**Subdivision 2—Powers relating to name and address****sdiv 2 (s 48J)** ins 2003 No. 89 s 9**Subdivision 3—Directions about conduct or movement at premises of non-State schools****sdiv 3 (ss 48K–48M)** ins 2003 No. 89 s 9**Subdivision 4—Directions to leave and not re-enter premises of non-State schools for 24 hours****sdiv 4 (s 48N)** ins 2003 No. 89 s 9**Subdivision 5—Prohibition from entering premises of non-State schools for up to 60 days****sdiv 5 (s 48O)** ins 2003 No. 89 s 9**Subdivision 6—Prohibition from entering premises of non-State schools for more than 60 days, but not more than 1 year****sdiv 6 (ss 48P–48Q)** ins 2003 No. 89 s 9**Division 9—Prohibition from entering premises of all State educational institutions and non-State schools for up to 1 year****div 9 (ss 48R–48T)** ins 2003 No. 89 s 9

**Division 10—Miscellaneous****div 10** (ss 48U–48X) ins 2003 No. 89 s 9**PART 5—SCHOOL COUNCILS****pt hdg** ins 1997 No. 83 s 21**Division 1—Object of part****div 1** (s 49) ins 1997 No. 83 s 21**Division 2—Establishment, name, functions and other matters****div 2** (ss 50–53) ins 1997 No. 83 s 21**Division 3—Membership****div hdg** ins 1997 No. 83 s 21**Membership of school councils****s 54** ins 1997 No. 83 s 21  
amd 1999 No. 81 s 24**Chairperson****s 55** ins 1997 No. 83 s 21**Terms of office for elected and appointed members****s 56** ins 1997 No. 83 s 21**Ineligibility on conviction of indictable offence****s 57** ins 1997 No. 83 s 21**Appointment not affected by other laws restricting employment****s 58** ins 1997 No. 83 s 21**Division 4—Constitution****div 4** (ss 59–60) ins 1997 No. 83 s 21**Division 5—Council business****div hdg** ins 1997 No. 83 s 21**Conduct of business****s 61** ins 1997 No. 83 s 21  
amd 2002 No. 75 s 74 sch**Time and place of meetings****s 62** ins 1997 No. 83 s 21**Quorum****s 63** ins 1997 No. 83 s 21**Conduct of meetings****s 64** ins 1997 No. 83 s 21**Attendance by proxy****s 65** ins 1997 No. 83 s 21**Disclosure of interests by council members****s 66** ins 1997 No. 83 s 21**Division 6—Application of other laws****div hdg** ins 1997 No. 83 s 21

**Criminal Law (Rehabilitation of Offenders) Act 1986**

s 67 ins 1997 No. 83 s 21

**Establishment of Queensland Curriculum Council**

s 67A ins 1995 No. 20 s 5  
om 1996 No. 65 s 52 sch 2

**Council's functions**

s 67B ins 1995 No. 20 s 5  
om 1996 No. 65 s 52 sch 2

**Membership of Council**

s 67C ins 1995 No. 20 s 5  
om 1996 No. 65 s 52 sch 2

**Official members**

s 67D ins 1995 No. 20 s 5  
om 1996 No. 65 s 52 sch 2

**Appointed members**

s 67E ins 1995 No. 20 s 5  
om 1996 No. 65 s 52 sch 2

**Members' term of office**

s 67F ins 1995 No. 20 s 5  
om 1996 No. 65 s 52 sch 2

**Members' fees and allowances**

s 67G ins 1995 No. 20 s 5  
om 1996 No. 65 s 52 sch 2

**Council not a statutory body**

s 67H ins 1995 No. 20 s 5  
om 1996 No. 65 s 52 sch 2

**Public Records Act 2002**

prov hdg prev s 68 prov hdg sub 1995 No. 58 s 4 sch 1  
pres s 68 prov hdg sub 2002 No. 11 s 62 sch 1  
s 68 prev s 68 om 1993 No. 12 s 20(2)  
pres s 68 ins 1997 No. 83 s 21  
amd 2002 No. 11 s 62 sch 1

**Freedom of Information Act 1992**

s 69 prev s 69 om 1993 No. 12 s 20(2)  
pres s 69 ins 1997 No. 83 s 21

**Public Sector Ethics Act 1994**

s 70 prev s 70 om 1993 No. 12 s 20(2)  
pres s 70 ins 1997 No. 83 s 21

**Division 7—Starting up**

div 7 (ss 71–74) ins 1997 No. 83 s 21

**Division 8—Dissolution**

div 8 (ss 75–76) ins 1997 No. 83 s 21

**Division 9—Miscellaneous****div 9** (ss 77–80) ins 1997 No. 83 s 21**PART 6—PARENTS AND CITIZENS ASSOCIATION****Savings—established centres, hostels, colleges and institutions****s 81A** ins 1993 No. 32 s 3 sch 1

om 1994 No. 15 s 3 sch 1

**Functions of an association****s 84** amd 1995 No. 58 s 4 sch 1; 1997 No. 83 s 23**Manner of exercising power etc.****s 85** orig s 85 om 1991 No. 23 s 20 sch

prev s 85 ins 1997 No. 83 s 36

om R4 (see RA s 37)

pres s 85 amd 1997 No. 83 s 24

**Amendment of s. 2. Parts and Divisions****s 86** prev s 86 om 1991 No. 23 s 20 sch**Amendment of s. 4. Interpretation****s 87** prev s 87 om 1991 No. 23 s 20 sch**Vacancy of officers of association****s 88** prev s 88 om 1991 No. 23 s 20 sch

pres s 88 ins 1997 No. 83 s 25

**Repeal of Division heading and ss. 10, 11, 12, 12A and 13****s 89** prev s 89 om 1991 No. 23 s 20 sch**Repeal of ss. 14 to 22A both inclusive****s 90** prev s 90 om 1991 No. 23 s 20 sch**Amendment of s. 23A. Application of certain sections the State pre-school centres****s 91** prev s 91 om 1991 No. 23 s 20 sch**Repeal of Division headings and ss. 23B, 24, 25 and 26****s 92** prev s 92 om 1991 No. 23 s 20 sch**Associations are statutory bodies****s 93** prev s 93 om 1991 No. 23 s 20 sch

pres s 93 sub 1996 No. 54 s 9 sch

**Financial year****s 94** prev s 94 om 1991 No. 23 s 20 sch

pres s 94 sub 1997 No. 83 s 26

**Audit of association accounts****s 95** prev s 95 om 1991 No. 23 s 20 sch

pres s 95 amd 1994 No. 15 s 3 sch 1; 1995 No. 58 s 4 sch 1

**Power to enter into agreements****s 96** prev s 96 om 1991 No. 23 s 20 sch

pres s 96 amd 1996 No. 65 s 52 sch 2; 1997 No. 83 s 27

**President to sign agreements for an association**

s 97 prev s 97 om R1 (see RA s 40)  
pres s 97 amd 1995 No. 58 s 4 sch 1

**Regulations to provide for membership**

s 98 prev s 98 om R1 (see RA s 40)  
pres s 98 sub 1997 No. 83 s 28

**Repeal of Act No. 70 of 1987**

s 99 prev s 99 om R1 (see RA s 40)

**Disclosure of interests by members of association**

s 106 ins 1997 No. 83 s 29

**Honorary life membership of association**

s 107 ins 1997 No. 83 s 29

**Division 9—Removal of member and officers of association**

div 9 (ss 108–113) ins 1997 No. 83 s 29

**PART 6A—CURRICULUM MANAGEMENT**

pt hdg ins 1995 No. 20 s 5  
om 1996 No. 65 s 52 sch 2

**PART 7—COMPULSORY EDUCATION****Compulsory schooling**

s 114 amd 1997 No. 83 s 30  
sub 2003 No. 62 s 76

**Flexible arrangements—non-State school**

s 114A ins 2003 No. 62 s 76

**Flexible arrangements—State educational institution**

s 114B ins 2003 No. 62 s 76

**Dispensation from compliance with compulsory enrolment and attendance provisions**

s 115 amd 1993 No. 32 s 3 sch 1; 1996 No. 64 s 7; 2001 No. 60 s 219 sch 2; 2003 No. 89 s 9A; 2003 No. 62 s 77

**Application for dispensation from compliance with compulsory enrolment and attendance provisions**

s 116 amd 1995 No. 58 s 4 sch 1; 2003 No. 62 s 65 sch 1

**Child's suspension or exclusion**

s 116A ins 2003 No. 62 s 78

**Child's illness**

s 116B ins 2003 No. 62 s 78

**Information notice and meeting**

prov hdg sub 2001 No. 60 s 218 sch 1  
s 117 amd 1995 No. 20 s 3 sch 1; 2001 No. 60 s 218 sch 1  
sub 2003 No. 62 No. 79



**Penalty for noncompliance with compulsory education provisions**

**s 118** amd 1994 No. 15 s 3 sch 1; 1995 No. 58 s 4 sch 1; 2000 No. 5 s 461 sch 3;  
2001 No. 60 s 218 sch 1; 2003 No. 62 s 80

**Employment of children of compulsory school age**

**prov hdg** amd 2003 No. 62 s 81(1)

**s 119** amd 1994 No. 87 s 3 sch 2; 1997 No. 83 s 31; 2003 No. 62 s 81(2)–(3)

**PART 8—ALLOCATION OF STATE EDUCATION**

**pt hdg** amd 1993 No. 32 s 3 sch 1

sub 1997 No. 83 s 32

**Division 1—Application and purpose of part**

**div 1** (ss 120–121) ins 1997 No. 83 s 32

**Division 2—Calculation of basic and remaining allocations**

**div hdg** ins 1997 No. 83 s 32

**Calculation of allocation where student begins schooling at State educational institution**

**s 122** ins 1997 No. 83 s 32

amd 1999 No. 81 s 25

**Calculation of allocation if s 122(1) does not apply**

**s 123** ins 1997 No. 83 s 32

amd 1999 No. 81 s 26; 2003 No. 62 s 82

**Principal must consider remaining allocation for certain students**

**s 124** ins 1997 No. 83 s 32

**Notice to certain students about remaining allocation**

**prov hdg** sub 1999 No. 81 s 27(1)

**s 125** ins 1997 No. 83 s 32

amd 1999 No. 81 s 27(2)

**Other notices about allocation**

**s 125A** ins 1999 No. 81 s 28

**Copy of notices under this part to be given to parent etc.**

**s 125B** ins 1999 No. 81 s 28

**Division 3—Extra semesters may be granted by principals**

**div hdg** ins 1997 No. 83 s 32

**Application for extra semesters if no remaining allocation**

**s 126** ins 1997 No. 83 s 32

**Principal must consider and decide application for extra semesters**

**s 127** ins 1997 No. 83 s 32

amd 2003 No. 62 s 65 sch 1

**Limitation on extra semesters granted by principals**

**s 128** ins 1997 No. 83 s 32

**Division 4—Submissions against principal's decision**

**div 4** (ss 129–130) ins 1997 No. 83 s 32

**Division 5—Further semesters may be granted by chief executive****div hdg** ins 1997 No. 83 s 32**Application for further semesters if no remaining allocation and after extra semesters****s 131** ins 1997 No. 83 s 32**Chief executive must consider and decide application for further semesters****s 132** ins 1997 No. 83 s 32  
amd 2003 No. 62 s 65 sch 1**Chief executive to give notice to principal if further semesters granted****s 133** ins 1997 No. 83 s 32**Limitation on further semesters granted by chief executive****s 134** ins 1997 No. 83 s 32**PART 8A—SCHOOLS IN RECEIPT OF SUBSIDY****pt hdg** ins 1999 No. 81 s 28A  
sub 2001 No. 60 s 218 sch 1**Division 1—Scholarships and allowances****div hdg** ins 2004 No. 44 s 25**Provision of scholarships and allowances****s 134A** prev s 134A ins 1999 No. 81 s 28A  
amd 2001 No. 60 s 219 sch 2  
om 2001 No. 60 s 218 sch 1  
pres s 134A (prev s 141) amd 1994 No. 15 s 3 sch 1; 1995 No. 58 s 4 sch 1;  
2001 No. 60 ss 218, 219 schs 1, 2  
renum and reloc 2001 No. 60 s 218 sch 1  
amd 2004 No. 44 s 26**Division 2—Financial data****div 2 (ss 134AB–134AE)** ins 2004 No. 44 s 27**Division 3—Giving of allowance acquittal details****div hdg** ins 2004 No. 44 s 27**Allowance acquittal details****s 134B** ins 1999 No. 81 s 28A  
amd 2001 No. 60 s 219 sch 2  
sub 2001 No. 60 s 218 sch 1**Annual report****s 134C** ins 2001 No. 60 s 218 sch 1**Show cause notice****s 134D** ins 2001 No. 60 s 218 sch 1**Representations about show cause notice****s 134E** ins 2001 No. 60 s 218 sch 1**Ending show cause process without further action****s 134F** ins 2001 No. 60 s 218 sch 1

**Recommendation by board**

s 134G ins 2001 No. 60 s 218 sch 1

**Decision of Minister**

s 134H ins 2001 No. 60 s 218 sch 1

**Minister's discretion not limited**

s 134I ins 2001 No. 60 s 218 sch 1

**PART 9—VARIOUS GENERAL PROVISIONS**

**pt hdg** orig pt 9 hdg om 1991 No. 23 s 20 sch  
 prev pt 9 hdg om 1993 No. 12 s 20(2)  
 pres pt 9 hdg ins 1997 No. 83 s 32

**Formation of and participation in corporations etc.****prov hdg** amd 1993 No. 32 s 3 sch 1

s 135 amd 1993 No. 32 s 3 sch 1

**Corporations and partnerships to furnish returns etc.****prov hdg** amd 1993 No. 32 s 3 sch 1

s 137 amd 1993 No. 32 s 3 sch 1

**Audit requirements**

s 138 amd 1993 No. 32 s 3 sch 1

sub 1994 No. 15 s 3 sch 1

**Restrictions on receiving etc. any wage, salary, fee etc.**

s 139 amd 1993 No. 32 s 3 sch 1; 1995 No. 58 s 4 sch 1

**Provision for student hostels**

s 142 amd 2001 No. 60 s 218 sch 1; 2003 No. 72 s 30 (retro)

**Transportation assistance for students with disabilities**

s 142A ins 2003 No. 72 s 31 (retro)

**Grants to other entities**

s 142B ins 2003 No. 62 s 83

**Inspection of places etc.****prov hdg** amd 2001 No. 60 s 218 sch 1

s 143 amd 2001 No. 60 s 218 sch 1

**Restriction on establishment of places for teaching overseas curriculum**

s 144 sub 1993 No. 32 s 3 sch 1

amd 1994 No. 15 s 3 sch 1; 2002 No. 75 s 36

**Restriction on overseas persons receiving instruction**

s 145 sub 1993 No. 32 s 3 sch 1

amd 1994 No. 15 s 3 sch 1

om 1996 No. 71 s 37

**Forming or establishing associations, trusts and other arrangements**

s 146 amd 1994 No. 15 s 3 sch 1; 1996 No. 54 s 9 sch

**Obligation to report sexual abuse of student under 18 years attending State school**

s 146A ins 2003 No. 88 s 14

**Obligation to report sexual abuse of student under 18 years attending non-State school**

s 146B ins 2003 No. 88 s 14

**PART 10—APPEALS AND MISCELLANEOUS MATTERS**

pt hdg orig pt 10 hdg om 1991 No. 23 s 20 sch

prev pt 10 hdg om 1997 No. 83 s 33

pres pt 10 hdg ins 1997 No. 83 s 34

**Division 1AA—Appeals against directions under section 48F or 48O**

div 1AA (ss 146C–146G) ins 2003 No. 89 s 10

**Division 1—Appeals against decisions under section 113, 130 or 132**

div hdg ins 1997 No. 83 s 34

amd 2003 No. 89 s 11

div 1 (ss 147–148) ins 1997 No. 83 s 34

**Division 2—Miscellaneous matters**

div hdg ins 1997 No. 83 s 34

**Delegation by chief executive**

s 149 ins 1991 No. 97 s 3 sch 1

sub 1996 No. 64 s 8

amd 2003 No. 89 s 12

**Evidentiary provisions**

s 150 (prev s 84) amd 1993 No. 32 s 3 sch 1

renum 1994 No. 15 s 3 sch 1

amd 1997 No. 83 s 34A

**Allegation of false or misleading information or document**

s 150A ins 2004 No. 44 s 28

**Approval of forms**

s 151 ins 1995 No. 58 s 4 sch 1

**Regulation-making power**

prov hdg sub 1995 No. 58 s 4 sch 1

s 152 sub 1993 No. 32 s 3 sch 1

amd 1995 No. 20 s 6; 1995 No. 58 s 4 sch 1; 1996 No. 65 s 52 sch 2; 1997 No. 83 s 35

**PART 11—TRANSITIONAL PROVISIONS**

pt hdg prev pt 11 hdg om R1 (see RA s 40)

pres pt 11 hdg ins 1994 No. 87 s 3 sch 2

**Division 1—Transitional provisions before Education and Other Legislation Amendment Act 1999**

div hdg ins 1999 No. 81 s 29

**References to Education Act 1964**

s 153 prev s 153 om 1994 No. 15 s 3 sch 1

pres s 153 ins 1994 No. 87 s 3 sch 2

**Transitional provision about existing dispensations from compliance with compulsory enrolment and attendance provisions**

- s 154** orig 154 om 1993 No. 32 s 3 sch 1  
 prev s 154 ins 1995 No. 58 s 4 sch 1  
 exp 28 May 1996  
 pres s 154 ins 1996 No. 64 s 9  
 exp 31 December 1999 (see s 154(4))

**Transitional provision about existing delegations**

- s 155** prev s 155 om 1994 No. 15 s 3 sch 1  
 pres s 155 ins 1996 No. 64 s 9  
 exp 7 April 1998 (see s 155(3))

**Existing resolutions of associations about financial year**

- s 156** prev s 156 om 1994 No. 15 s 3 sch 1  
 pres s 156 ins 1997 No. 83 s 36

**Removal of officers or members of association**

- s 157** prev s 157 om 1994 No. 15 s 3 sch 1  
 pres s 157 ins 1997 No. 83 s 36

**Division 2—Transitional and validation provisions for Education and Other Legislation Amendment Act 1999**

- div hdg** ins 1999 No. 81 s 30

**Transitional provision about existing elected members of school councils**

- s 158** ins 1997 No. 83 s 36  
 sub 1999 No. 81 s 30

**Transitional provision about guidelines**

- s 159** ins 1999 No. 81 s 30

**Validation of certain decisions made by Minister**

- s 160** ins 1999 No. 81 s 30

**Validation of conditions imposed on non-State school**

- s 161** ins 1999 No. 81 s 30

**Division 3—Transitional and validation provisions for Education (Accreditation of Non-State Schools) Act 2001**

- div 3 (ss 162–166)** ins 2001 No. 60 s 219 sch 2

**Division 4—Transitional provisions for Youth Participation in Education and Training Act 2003**

- div 4 (ss 166A–166D)** ins 2003 No. 62 s 84

**Division 5—Transitional provisions for Education Legislation Amendment Act 2004**

- div 5 (ss 166F–166J)** ins 2004 No. 44 s 29

**PART 12—TRANSITIONAL PROVISION FOR COMPULSORY EDUCATION**

- pt hdg** ins 2002 No. 75 s 37

**Transitional provision for compulsory education**

- s 167** ins 2002 No. 75 s 37  
 amd 2003 No. 62 s 65 sch 1

**PART 13—VALIDATION PROVISIONS FOR HOME SCHOOLING  
DISPENSATION**

pt 13 (ss 168–170) ins 2003 No. 89 s 13

**8 List of forms notified or published in the  
gazette**

**Form 51 Version 1—Home Schooling**

pubd gaz 28 June 1996 p 1161

**Form 52 Version 1—Accident Report**

pubd gaz 28 June 1996 p 1161

**Form 53 Version 1—Overseas Student Application**

pubd gaz 28 June 1996 p 1161

**Form 54 Version 1—Compulsory Attendance**

pubd gaz 28 June 1996 p 1161

**Form 55 Version 1—Transfer of Student**

pubd gaz 28 June 1996 p 1161

**Form 56 Version 1—Textbook and Resource Allowance (Non State Secondary  
Schools)**

pubd gaz 28 June 1996 p 1161

**Form 57 Version 1—Textbook and Resource Allowance (State Secondary  
Schools/Secondary Departments)**

pubd gaz 28 June 1996 p 1161

**Form 58 Version 1—Living Away From Home Allowance**

pubd gaz 28 June 1996 p 1161

**9 Table of renumbered provisions**

under the Reprints Act 1992 s 43 as required by the Education (General Provisions)  
Act 1989 s 85 [Reprint No. 4]

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## 10 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in footnotes to the text.