

Queensland



# EDUCATION (GENERAL PROVISIONS) ACT 1989

**Reprinted as in force on 28 July 1997  
(includes amendments up to Act No. 71 of 1996)**

**Warning—see last endnote for uncommenced amendments**

**Reprint No. 3A**

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# Information about this reprint

This Act is reprinted as at 28 July 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

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**EDUCATION (GENERAL PROVISIONS)  
ACT 1989**

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# EDUCATION (GENERAL PROVISIONS) ACT 1989

[as amended by all amendments that commenced on or before 28 July 1997]

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

### PART 1—PRELIMINARY

#### Short title

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

#### Interpretation

3.(1) In this Act—

“**age of compulsory attendance**” means not less than 6 nor more than 15 years.

“**approved form**” see section 77C.<sup>1</sup>

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

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

“**corporation**” means the corporation sole preserved, continued in

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<sup>1</sup> Section 77C (Approval of forms)

existence and constituted under this Act by the Minister for the time being by the name of 'The Minister for Education of Queensland'.

**“disabled person”** means a person who is a disabled person in accordance with subsection (3).

**“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.

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

**“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 section 30J.

**“materials”** includes documents.

**“non-State school”** means a school that is a non-State school in accordance with subsection (2).

**“notice recommending exclusion”** see section 30H(3).

**“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 30N.

**“preschool education”** means educational programs, appropriate to the needs of children below the age of compulsory attendance and prior to enrolment in year numbered 1, that are provided in conjunction with a primary school.

**“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”** means the person in charge of a State educational institution.

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

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

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

**“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.

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

**“special education”** means educational programs and services appropriate to the needs of a disabled person that are additional to or otherwise different from educational programs generally available to persons of that age who are not disabled persons.

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

**“State educational institution”** means any educational institution established pursuant to section 13, 14 or 15.

**“State preschool centre”** means premises or that part of premises at which preschool education is provided by the State.

**“State school”** means a preschool centre, primary school, secondary school or special school.

**“student”** means a person who is a student in accordance with subsection (4).

**“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 registered as a teacher, or who has provisional registration as a teacher, under the *Education (Teacher Registration) Act 1988*; and
- (b) is a member of the educational staff of a State educational institution.

(2) A school, not being a State school, that provides, in the opinion of the Minister, facilities for and instruction in preschool, primary, secondary or special education in accordance with guidelines approved by the Governor

in Council, is a non-State school for the purposes of this Act.

(3) A person who has not attained the age of 18 years and who, in the opinion of the Minister, is unlikely to attain those levels of development of which the person is capable unless the person receives special education, is a disabled person for the purposes of this Act.

(4) 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.

## **PART 2—CORPORATION OF THE MINISTER AND GENERAL POWERS OF THE MINISTER**

### *Division 1—Continuation of corporation sole*

#### **The corporation of the Minister**

4.(1) The corporation sole by the name of ‘The Minister for Education of Queensland’ constituted under the *Education Act 1964* is hereby preserved, continued in existence, and constituted under this Act under that name and the Minister, including successively any and every Minister for the time being administering this Act, shall be such corporation sole by such name, and by such name shall have perpetual succession and an official seal, and shall be capable in law of—

- (a) suing and being sued in the Minister’s corporate name;
- (b) subject to and for the purposes of this Act, acquiring, holding, taking on lease, leasing, exchanging and disposing of property, real and personal, movable and immovable (whether situated in Queensland or elsewhere);
- (c) accepting gifts, grants, bequests or devises and creating and administering trust funds;
- (d) causing the formation of a corporation or partnership, and becoming a member of or managing a corporation or partnership for any purpose which may seem directly or indirectly calculated

to further education in any way whatsoever;

- (e) forming or establishing or participating in the forming or establishing of any association, trust or other such 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.

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

**4A.(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*.

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

**5.** 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.

## *Division 2—General powers of Minister*

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

**6.(1)** The Minister, or a person authorised by the Minister for that purpose, may by prior invitation from or agreement with a committee, council, group or body—

- (a) become and be a member of any committee, council, 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, council, 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, council, group or body, the Minister may be a member of the directorate or other governing body of that committee, council, group or body.

(4) The Minister may incur any liability and may pay such contributions as membership of a committee, council, group or body, pursuant to subsection (1), entails.

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

7.(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.

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

8. 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.

### **Appointment of advisory committees**

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

### **Delegation by Minister**

10. The Minister may delegate to a person any of the Minister's powers under this Act (other than powers under sections 3(2) and 6(1)(a)(ii)).

## **PART 3—STATE EDUCATIONAL INSTITUTIONS**

### *Division 1—State education*

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

12.(1) For every student attending a State educational institution established pursuant to section 13, 14 or 15(1)(c), there shall be provided a program of instruction 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) Special education may be provided or contributed to by the Minister for every disabled person who is of the age of compulsory attendance and who is enrolled in a non-State school or is receiving instruction by any other means whatsoever approved by the Minister for the purpose.

(3) Where special education is provided or contributed to by the Minister to a disabled person pursuant to subsection (2), it shall be the duty of the governing body or person in charge of the non-State school or means of instruction to report to the Minister, at such times and in such manner and containing such particulars as required by the Minister, on the special education provided at that school or by that means.

(4) Subject to the agreement of the parent of a disabled person who is not of the age of compulsory attendance, special education may be provided to that person in a manner provided for in subsection (1) or (2).

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

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

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

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

14. 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.

#### **Establishment of school support centres, student hostels and residential colleges and other State educational institutions**

15.(1) If the Minister considers it necessary or convenient for the purposes of this Act, the Minister may establish and conduct, in accordance with guidelines approved by the Governor in Council—



- (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.

### **Curricula for State educational institutions**

**18.(1)** The Minister is authorised to do all things considered by the Minister to be necessary to develop, review, maintain and implement curricula taught or to be taught in State educational institutions.

(2) Nothing in subsection (1) shall be construed as conferring authority on the Minister to prescribe the use of any curriculum developed or maintained pursuant to this section other than in a State educational institution.

(3) 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, undertakings or agreements made or entered into for those purposes shall have full force and effect.

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

**19.(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), subject to such conditions (if any) as may be prescribed by the regulations.

(2) 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.

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

**20.** 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.

### **Investigation of complaint**

**21.** 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.

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

**22.(1)** Subject to subsection (2), any State educational institution may be discontinued and the property, facilities and other assets used in connection therewith sold or otherwise disposed of.

**(2)** Any such institution established with the approval of the Governor in Council may be discontinued only by the Governor in Council.

### **Instruction to be free**

**23.** 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***

### **School records and reports**

**28.(1)** The principal of a State school shall keep or cause to be kept such school records and reports as are prescribed by the regulations and shall be responsible for the punctual preparation and dispatch to the chief executive or to a person authorised by the chief executive of such returns as are

prescribed by the regulations.

(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;

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.

### **Hours of instruction**

29. The hours during which instruction is provided in a State school shall be as prescribed in the regulations.

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

30.(1) Any minister of religion or accredited representative of a religious denomination, 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 religious society or denomination 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.

(2A) A separate reading book shall be provided for such purpose.

(3) 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.

(4) 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.

(5) The provisions pursuant to this section shall not apply or extend to State preschool centres.

## **PART 3A—GOOD ORDER AND MANAGEMENT OF STATE EDUCATIONAL INSTITUTIONS**

### *Division 1—Behaviour management plans*

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

**30A.(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*

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

**30B.** 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.

#### **Suspension of student**

**30C.(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.

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

**30D.** 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.

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

**30E.(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.

### **Dealing with submissions against suspensions**

**30F.(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) promptly tell the student and principal about the decision; 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*****Grounds for exclusion of student**

**30G.** 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.

**Suspension pending dealing with recommendation for exclusion**

**30H.(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 30I(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.

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

**30I.(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.

### **Exclusion of student**

**30J.(1)** If—

- (a) a principal of a State educational institution, under section 30H(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 30I(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) promptly tell the student—
  - (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.

### **Submissions against exclusions**

**30K.(1)** 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.

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

**30L.(1)** If a submission is made to the chief executive, the chief executive 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 exclude.

**(2)** After the chief executive has decided to affirm, vary or set aside the decision, the chief executive must—

- (a) promptly tell the excluded person of the chief executive’s decision; 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.

*Division 4—Cancellation of enrolment of students above the age of compulsory attendance*

**Grounds for cancelling enrolment of student more than the age of compulsory attendance**

**30M.(1)** The grounds for cancelling the enrolment at a State educational institution of a student who is more than the age of compulsory attendance 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 the age of compulsory attendance may not be cancelled under this division.

**Cancellation of student’s enrolment**

**30N.(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 the age of compulsory attendance.

**(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.

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

**30O.(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.

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

**30P.(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) promptly tell the person under the cancellation of the decision; 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***

#### **Definition for division**

**30Q.** In this division—

“**student**” means—

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

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

**30R.(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.

**Submissions about suspensions, exclusions and cancellation**

**30S.** 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.

**Time notices take effect**

**30T.** A notice given to a student under this part takes effect on the day the notice is given to the student or a later day stated in the notice.

***Division 6—Offences*****Wilful disturbance**

**30U.(1)** A person must not wilfully disturb the good order or management of a State educational institution.

Maximum penalty—10 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—10 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.

**Trespass**

**30V.** 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—10 penalty units.

## **PART 4—PARENTS AND CITIZENS ASSOCIATIONS**

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

#### **Preschool not to be a State school**

**31.** A State preschool centre is not a State school for the purposes of this part.

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

**33.(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.

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

**34.(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.

### **Objectives of an association**

35. 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.

### **Functions of an association**

36.(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 and students at such 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.

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

**37.(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.

### **Dissolution of association**

**38.** 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*****Officers of an association**

**39.(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.

***Division 3—Meetings of an association*****Meetings**

**40.(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

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- (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*

**Subcommittees**

41.(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*

**Constitution**

42.(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***

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

**43.(1)** Subject to section 47(3), 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.

**Associations are statutory bodies**

**44.(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*.

**Financial year**

**45.** The financial year of an association shall be either the period of 12 months ending 31 December or the period of 12 months ending 30 September as determined by an association by resolution in that behalf.

**Audit of association accounts**

**46.** 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*****Power to enter into agreements**

**47.(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 which agreement has as its object the provision of equipment, amenities or facilities for the benefit generally of the students attending a State school (whether or not the equipment, amenity or facility is provided at the State school premises or any other premises).

**(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.

**(2A)** Such approval may be given generally in respect of a class of agreement or a particular agreement.

**(3)** 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 43(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.

**(4)** 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.

(5) The conditions may relate to a stated agreement or agreements of a stated class.

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

**48.(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*

#### **Annual subscription**

**49.** An association may impose an annual subscription for membership as and in the manner prescribed in the regulations.

#### **Register of members**

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

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

**51.** 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 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.

**Association may employ**

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

**Mandatory insurance cover**

**53.** 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.

**Proceedings in relation to an association**

**54.(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.

**(1A)** Provided that the Minister's approval is first had and obtained for any such proceeding.

**(2)** Every court of law shall take judicial notice of the signature of the president to any such appointment pursuant to subsection (1).

**(3)** 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.

**(4)** Proceedings in any court may be taken against an association in its name as prescribed in the regulations.

**(4A)** Any document commencing proceedings in subsection (4) shall be served on the chief executive.

**(5)** Any damages or costs awarded to a plaintiff by virtue of a proceeding against an association pursuant to subsection (4) shall be a lawful expense of an association pursuant to section 43(1) and shall be met from funds available to the association.

**(6)** The Minister may, in granting approval for a proceeding pursuant to subsection (1A) or in relation to a proceeding against the association pursuant to subsection (4), issue directions in relation to such proceeding in which case the association shall comply with such directions.

**Authority of an association**

**55.(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.

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

**56.(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).

**PART 5—COMPULSORY EDUCATION****Compulsory enrolment and attendance at school**

**57.** Every parent of a child being of the age of compulsory attendance shall cause that child—

- (a) to be enrolled at a State school; or
- (b) to be enrolled at a non-State school;

and to attend on every school day the State or non-State school at which the child is enrolled unless there is in existence at the material time, in respect of that child, a dispensation or provisional dispensation granted in accordance with section 58.



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

**58.(1)** The Minister may grant to a parent of a child of the age of compulsory attendance, in respect of that child, dispensation from compliance with any obligation set forth in section 57 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 Minister, 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;
  - (ii) in a range of subjects acceptable to the Minister, in some other manner which, in the opinion of the Minister, 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 Minister, 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;
- (d) that the child's home is not less than 16 km from the nearest State educational institution with the required year level for the child and—

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- (i) is not less than 4.5 km from a school transport service to a State educational institution with the required year level for the child; or
- (ii) is less than 4.5 km from a school transport service to a State educational institution with the required year level for the child but—
  - (A) is not less than 56 km from the institution using the route travelled by the school transport service; or
  - (B) is not less than 3 hours travelling time per day using the school transport service;
- (e) that there is any other reason which, in the opinion of the Minister, is valid.

(3) The Minister may grant to a parent of a child of the age of compulsory attendance, in respect of that child, provisional dispensation from compliance with any obligation set forth in section 57 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 59 is being determined.

(5) Distance from a child's home to the nearest State educational institution with the required year level for the child must be measured—

- (a) if there is no school transport service to the institution—by the shortest practicable route; or
- (b) if there is a school transport service to the institution—by the total of the distance from the child's home to the school transport access point and the distance travelled by the school transport service from that point to the institution.

(6) In this section—

**“school transport service”** means—

- (a) a school transport service approved by the chief executive of the department that deals with matters arising under the *Transport*

*Operations (Passenger Transport) Act 1994; or*

- (b) a public transport service.

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

**59.** A parent of a child of the age of compulsory attendance seeking dispensation from compliance with compulsory enrolment and attendance provisions, pursuant to section 58 shall make application in the approved form.

### **Enrolment at School of Distance Education etc.**

**60.(1)** Every parent of a child being of the age of compulsory attendance who does not attend a State or non-State school because of a reason prescribed in section 58(2)(d) shall cause that child to be enrolled with the School of Distance Education or any other State educational institution offering distance education in a course approved by the principal of that school or that institution, as the case may be, unless such child is receiving instruction in a place or manner prescribed in section 58(2)(a) or is prevented or prohibited from attending school because of a reason prescribed in section 58(2)(b), (c) or (e).

**(2)** In this section—

**“to be enrolled”** includes to return completed teaching and learning materials regularly to the educational institution.

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

**61.(1)** A parent of a child being of the age of compulsory attendance who fails to comply with section 57 or 60 commits an offence against this Act.

Maximum penalty—

- (a) for a first offence in respect of any child of that parent—5 penalty units;
- (b) for a second or subsequent offence, whether in relation to the same child or another child of that parent—10 penalty units.

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(2) A proceeding for such an offence may be commenced upon the complaint of a police officer or a person authorised in writing in that behalf by the Minister.

(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;

(b) a statement in a complaint that—

(i) a child is of the age of compulsory attendance;

(ii) a parent of a child has failed to cause such child to be enrolled at a State or non-State school or to attend on any school day the State or non-State school at which the child is enrolled;

(iii) a parent of a child has failed to cause such child to enrol in the School of Distance Education or any other State educational institution offering distance education, in a course approved by the principal of that school or that institution, as the case may be;

is evidence of the thing stated;

(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;

(d) a certificate purporting to be signed by the Minister as to whether or not the Minister has granted to a parent specified therein of a child of the age of compulsory attendance specified therein a dispensation or a provisional dispensation in accordance with section 58 and the period (if any) of the operation of the dispensation is evidence of the things contained in the certificate.

**Employment of children of school age**

**62.(1)** A parent shall not employ or cause or permit to be employed during the hours from time to time prescribed for attendance at school the parent's child who is of the age of compulsory attendance unless there is in existence at the material time, in respect of that child, a dispensation granted in accordance with section 58(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.

**PART 6—PROVISIONS RELATING TO  
CORPORATIONS, PARTNERSHIPS, JOINT  
AGREEMENTS AND ARRANGEMENTS,  
AGREEMENTS FOR USE OF FACILITIES AND  
STAFF**

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

**63.(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.

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

64. 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.

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

65. A corporation or partnership—

- (a) formed by the corporation pursuant to section 63; 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.

### **Audit requirements**

**66.** For the purposes of the *Financial Administration and Audit Act 1977*, a corporation mentioned in section 65 of this Act is a statutory body within the meaning of that Act.

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

**67.(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.

## **PART 8—GENERAL PROVISIONS**

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

**71.(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.

### **Provision of scholarships and allowances**

72.(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;
- (b) each non-State school that is categorised by the Minister as being referred to by that term.

(2) Subject to appropriation by Parliament of money for the purpose, the Minister may, in accordance with regulations made in that behalf—

- (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) Where a school, not being a State school, is to be or is being established and the Minister is of the opinion that, on its establishment it will provide satisfactory facilities and efficient and regular instruction in a range of subjects acceptable to the Minister, the Minister may categorise that school provisionally as a school in receipt of subsidy, and subsection (2) shall apply to that school.

(4) Where allowances are paid pursuant to subsection (2)(b) in the case of a school in receipt of subsidy that the Minister has categorised provisionally pursuant to subsection (3), such allowances may be paid from the date the Minister is satisfied that the school is providing satisfactory facilities and efficient and regular instruction in a range of subjects acceptable to the Minister or, in lieu thereof, from such other date the Minister considers appropriate in the circumstances.

(5) The Minister in categorising a school as a school in receipt of subsidy or provisionally pursuant to subsection (3) may impose such terms and conditions and specify such other matter or thing as the Minister considers necessary or desirable.

(6) 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.

### **Provision for student hostels**

**73.** 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 within the meaning of the term in section 72 in accordance with policies approved from time to time by the Minister for that purpose.

**Inspection of non-State schools etc.**

**74.(1)** Subject to subsection (2), the Minister may cause—

- (a) a non-State school;
- (b) a place other than a State school or non-State school referred to in section 58(2)(a)(i) or a place where instruction in some other manner is conducted pursuant to section 58(2)(a)(ii);
- (c) 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—

- (d) is concerned with a matter which threatens or interferes with, or is likely to threaten or interfere with, the education of students at that non-State school, place or institution, as the case may be; and
- (e) 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 non-State school—the principal and the body and authority that appear to the Minister to be the relevant responsible body and authority in respect of that school;
- (b) in the case of a place of a kind referred to in subsection (1)(b)—the person who is or appears to the Minister to be in charge of that place;
- (c) in the case of an institution of a kind referred to in subsection (1)(c)—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 principal and the body and authority referred to in subsection (2)(a), the person referred to in subsection (2)(b) or the person referred to in subsection (2)(c), as the case may be.

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

**75.(1)** In this section—

**“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.

**(3)** The Governor in Council may impose conditions on the approval that the Governor in Council considers appropriate.

**(3A)** A person establishing or conducting an international educational institution must comply with the conditions of the approval.

Maximum penalty—10 penalty units.

**(4)** 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.

**(5)** The Minister may recover from the person who conducts an international educational institution the reasonable costs incurred in relation to an inspection.

**(6)** 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.

**(7)** Subsection (6) 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 58(2)(a).

**Restriction on overseas persons receiving instruction**

**76.(1)** A person must not enrol or provide instruction to a person from a foreign country on a fee-paying basis in any of the following educational institutions unless the Governor in Council has given approval to the institution to provide instruction to persons from foreign countries—

- (a) a non-State school;
- (b) another institution (other than a State school) preparing students for a junior or senior certificate;
- (c) an international educational institution in respect of which an approval is given under section 75.

Maximum penalty—10 penalty units.

**(2)** The Governor in Council may impose conditions on the approval that the Governor in Council considers appropriate.

**(3)** A person to whom the approval applies must comply with the conditions of the approval.

Maximum penalty—10 penalty units.

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

**77.(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*.

**Delegation by chief executive**

**77A.(1)** The chief executive may delegate the chief executive's powers under this Act, other than part 3A,<sup>2</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.

**Evidentiary provisions**

**77B.** 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 a disabled person 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.

**Approval of forms**

**77C.** The chief executive may approve forms for use under this Act.

**Regulation-making power**

**78.(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

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<sup>2</sup> Part 3A (Good order and management of State educational institutions)

- fees;
- (b) the management, administration and control of the operations of a State educational institution;
  - (d) prescribing offences for contraventions of a regulation and fixing a maximum penalty of 10 penalty units for a contravention.

## **PART 9—TRANSITIONAL PROVISIONS**

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

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

### **Transitional provision about existing dispensations from compliance with compulsory enrolment and attendance provisions**

**80.(1)** This section applies to a dispensation from compliance with any obligation under section 57 for a child of the age of compulsory attendance, that was in force immediately before the commencement, if—

- (a) the dispensation was granted by the Minister because of a reason stated in section 58(2)(d) as in force immediately before the commencement; or
- (b) the dispensation was a provisional dispensation while an application under section 59 was being determined and the application was based on section 58(2)(d) as in force immediately before the commencement.

**(2)** The dispensation continues in force while the child is enrolled at a school of distance education unless the dispensation expires or is sooner revoked by the Minister for a reason other than because the criteria stated in section 58(2)(d) changed on the commencement.

**(3)** Also, if the dispensation is a provisional dispensation as mentioned in subsection (1)(b), the Minister may grant a dispensation for the child based on section 58(2)(d) as in force immediately before the commencement even

though, apart from this section, the Minister cannot grant the dispensation.

(4) This section, and dispensations to which it relates, expire on 31 December 1999.

### **Transitional provision about existing delegations**

**81.(1)** This section applies to a delegation—

- (a) made under section 77A<sup>3</sup> before the commencement of this section; and
- (b) in force immediately before the commencement.

(2) The delegation continues to have effect for 1 year after the commencement, unless it is revoked before the year ends.

(3) This section expires 1 year after the commencement.

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<sup>3</sup> Section 77A (Delegation by chief executive)

**ENDNOTES****1 Index to endnotes**

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in section 5(c) of the Reprints Act 1992. Accordingly, this reprint includes all amendments that commenced operation on or before 28 July 1997. Future amendments of the Education (General Provisions) Act 1989 may be made in accordance with this reprint under section 49 of the Reprints Act 1992.



### 3 Key

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

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

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 15 of 1994	20 July 1994
2	to Act No. 20 of 1995	4 July 1995
3	to Act No. 71 of 1996	9 May 1997

### 5 Tables in earlier reprints

#### TABLES IN EARLIER REPRINTS

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

## **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)

as amended by—

### **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 s 20 sch, pt 6**

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

### **State 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 3A 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 not yet proclaimed into force

## 7 List of annotations

**Long title** amd R1 (see RA s 37)**Commencement**

s 2 om R2 (see RA s 37)

**Interpretation**

s 3 amd 1993 No. 32 s 3 sch 1

def “**approved form**” ins 1995 No. 58 s 4 sch 1def “**cancel**” ins 1996 No. 64 s 4(2)def “**company**” om 1993 No. 32 s 3 sch 1def “**council**” ins 1995 No. 20 s 4

om 1996 No. 65 s 52 sch 2

def “**Department**” om 1991 No. 97 s 3 sch 1def “**Director-General**” sub 1993 No. 32 s 3 sch 1

om R1 (see RA s 39)

def “**early childhood education**” ins 1995 No. 20 s 4

om 1996 No. 65 s 52 sch 2

def “**Education Office gazette**” amd 1993 No. 32 s 3 sch 1def “**exclude**” ins 1996 No. 64 s 4(2)def “**excluded person**” ins 1996 No. 64 s 4(2)def “**executive director**” ins 1991 No. 23 s 29(a)

om 1996 No. 64 s 4(1)

def “**materials**” sub 1996 No. 65 s 52 sch 2def “**Minister**” om 1991 No. 97 s 3 sch 1def “**notice recommending exclusion**” ins 1996 No. 64 s 4(2)

- def **“open learning”** ins 1995 No. 20 s 4  
om 1996 No. 65 s 52 sch 2
- def **“person under a cancellation”** ins 1996 No. 64 s 4(2)
- def **“practising teacher”** ins 1995 No. 20 s 4  
om 1996 No. 65 s 52 sch 2
- def **“principal”** sub 1996 No. 64 s 4
- def **“reasonably satisfied”** ins 1996 No. 64 s 4(2)
- def **“regional director”** om 1991 No. 23 s 29(b)
- def **“State educational institution”** amd 1993 No. 32 s 3 sch 1
- def **“State school”** amd 1993 No. 32 s 3 sch 1
- def **“suspend”** ins 1996 No. 64 s 4(2)
- def **“teacher”** ins 1996 No. 64 s 4(2)
- 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

**The corporation of the Minister**

**s 4** amd 1993 No. 32 s 3 sch 1

**Corporation of the Minister is statutory body**

**s 4A** ins 1996 No. 54 s 9 sch

**Delegation by Minister**

**s 10** sub 1991 No. 97 s 3 sch 1  
amd 1994 No. 15 s 3 sch 1  
amd 1995 No. 20 s 3 sch 1

**Imposition, collection and disposal of fees, etc., and other moneys**

**s 11** om 1994 No. 15 s 3 sch 1

**Provision of State education**

**s 12** amd 1994 No. 15 s 3 sch 1

**Power to establish State schools**

**s 13** sub 1994 No. 15 s 3 sch 1

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

**s 14** sub 1994 No. 15 s 3 sch 1

**Establishment of school support centres, student hostels and residential colleges and other State educational institutions**

**s 15** sub 1993 No. 32 s 3 sch 1

**Power to establish and maintain student hostels and student residential colleges**

**s 16** om 1993 No. 32 s 3 sch 1

**Power to establish and maintain other State educational institutions**

**s 17** om 1993 No. 32 s 3 sch 1

**Use of State educational institutions**

**s 19** amd 1994 No. 15 s 3 sch 1

**Investigation of complaint**

**s 21** amd 1994 No. 15 s 3 sch 1

**Suspension from attendance**

**s 24** sub 1989 No. 65 s 3  
 amd 1991 No. 23 s 30  
 om 1996 No. 64 s 5

**Exclusion from attendance**

**s 25** sub 1989 No. 65 s 4  
 amd 1991 No. 23 s 31  
 om 1996 No. 64 s 5

**Wilful disturbance**

**s 26** om 1996 No. 64 s 5

**Trespass**

**s 27** om 1996 No. 64 s 5

**School records and reports**

**s 28** amd 1994 No. 15 s 3 sch 1

**Religious instruction in school hours**

**s 30** amd 1991 No. 97 s 3 sch 1; 1995 No. 20 s 3 sch 1

**PART 3A—GOOD ORDER AND MANAGEMENT OF STATE EDUCATIONAL INSTITUTIONS**

**pt hdg** ins 1996 No. 64 s 6

**Division 1—Behaviour management plans**

**div 1 (s 30A)** ins 1996 No. 64 s 6

**Division 2—Suspension of students**

**div 2 (ss 30B–30F)** ins 1996 No. 64 s 6

**Division 3—Exclusion of students**

**div 3 (ss 30G–30L)** ins 1996 No. 64 s 6

**Division 4—Cancellation of enrolment of students above the age of compulsory attendance**

**div 4 (ss 30M–30P)** ins 1996 No. 64 s 6

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

**div 5 (ss 30Q–30T)** ins 1996 No. 64 s 6

**Division 6—Offences**

**div 6 (ss 30U–V)** ins 1996 No. 64 s 6

**Associations to continue in existence**

**s 32** om 1994 No. 15 s 3 sch 1

**Functions of an association**

**s 36** amd 1995 No. 58 s 4 sch 1

**Associations are statutory bodies**

**s 44** sub 1996 No. 54 s 9 sch

**Audit of association accounts**

**s 46** amd 1994 No. 15 s 3 sch 1; 1995 No. 58 s 4 sch 1

**Power to enter into agreements**

s 47            amd 1996 No. 65 s 52 sch 2

**President to sign agreements for an association**

s 48            amd 1995 No. 58 s 4 sch 1

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

s 58            amd 1993 No. 32 s 3 sch 1; 1996 No. 64 s 7

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

s 59            amd 1995 No. 58 s 4 sch 1

**Enrolment at School of Distance Education, etc.**

s 60            amd 1995 No. 20 s 3 sch 1

**Penalty for noncompliance with compulsory education provisions**

s 61            amd 1994 No. 15 s 3 sch 1; 1995 No. 58 s 4 sch 1

**Employment of children of school age**

s 62            amd 1994 No. 87 s 3 sch 2

**PART 6—PROVISIONS RELATING TO CORPORATIONS, PARTNERSHIPS, JOINT AGREEMENTS AND ARRANGEMENTS, AGREEMENTS FOR USE OF FACILITIES AND STAFF**

pt hdg        amd 1993 No. 32 s 3 sch 1

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

prov hdg     amd 1993 No. 32 s 3 sch 1

s 63            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 65            amd 1993 No. 32 s 3 sch 1

**Audit requirements**

s 66            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 67            amd 1993 No. 32 s 3 sch 1; 1995 No. 58 s 4 sch 1

**PART 6A—CURRICULUM MANAGEMENT**

pt hdg        ins 1995 No. 20 s 5

pt 6A (ss 67A–67H) ins 1995 No. 20 s 5

om 1996 No. 65 s 52 sch 2

**PART 7—GENERAL PROVISIONS FOR HIGHER EDUCATION AWARDS AND USE OF THE TERM ‘UNIVERSITY’ ETC.**

pt hdg        om 1993 No. 12 s 20(2)

**Definitions for pt 7**

hdg            sub 1995 No. 58 s 4 sch 1

s 68            om 1993 No. 12 s 20(2)

**Restriction on use of term ‘University’ etc.**

s 69 om 1993 No. 12 s 20(2)

**Restriction on conferring and using certain awards**s 70 om 1993 No. 12 s 20(2)  
amd 1995 No. 58 s 4 sch 1**Disposal of property donated for school or other educational purposes**

s 71 sub 1994 No. 15 s 3 sch 1

**Provision of scholarships and allowances**

s 72 amd 1994 No. 15 s 3 sch 1; 1995 No. 58 s 4 sch 1

**Restriction on establishment of places for teaching overseas curriculum**s 75 sub 1993 No. 32 s 3 sch 1  
amd 1994 No. 15 s 3 sch 1**Restriction on overseas persons receiving instruction**s 76 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 77 amd 1994 No. 15 s 3 sch 1; 1996 No. 54 s 9 sch

**Delegation by chief executive**s 77A ins 1991 No. 97 s 3 sch 1  
sub 1996 No. 64 s 8**Evidentiary provisions**s 77B (prev s 84) amd 1993 No. 32 s 3 sch 1  
renum 1994 No. 15 s 3 sch 1**Approval of forms**

s 77C ins 1995 No. 58 s 4 sch 1

**Regulation-making power**hdg sub 1995 No. 58 s 4 sch 1  
s 78 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**Annual Report**

s 79 prev om 1994 No. 15 s 3 sch 1

**PART 9—TRANSITIONAL PROVISIONS**

pt hdg pres ins 1994 No. 87 s 3 sch 2

**References to Education Act 1964**

s 79 pres s 79 ins 1994 No. 87 s 3 sch 2

**Transitional provision about existing dispensations from compliance with compulsory enrolment and attendance provisions**

**s 80** (prev s 80) om 1993 No. 32 s 3 sch 1  
 prev s 80 ins 1995 No. 58 s 4 sch 1  
 prev s 80 expired 28 May 1996  
 pres s 80 ins 1996 No. 64 s 9  
 exp 31 December 1999 (see s 80(4))

**Transitional provision about existing delegations**

**s 81** prev om 1994 No. 15 s 3 sch 1  
 pres ins 1996 No. 64 s 9  
 exp 7 April 1998 (see s 81 (3))

**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

**Offences generally**

**s 82** om 1994 No. 15 s 3 sch 1

**General penalty**

**s 83** om 1994 No. 15 s 3 sch 1

**Evidentiary provisions**

**s 84** renum as s 77B 1994 No. 15 s 3 sch 1

**PART 9—AMENDMENT OF EDUCATION ACT 1964**

**pt hdg** prev om 1991 No. 23 s 20 sch  
**pt 9 (ss 85-96)** prev om 1991 No. 23 s 20 sch

**PART 10—AMENDMENT OF UNIVERSITY OF QUEENSLAND ACT 1965**

**pt 10 (ss 97-98)** om R1 (see RA s 40)

**PART 11—REPEAL OF EDUCATION ACT AND ANOTHER ACT AMENDMENT ACT 1987**

**pt 11 (s 99)** om R1 (see RA s 40)



## **8 List of forms**

**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)**

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**Form 57 Version 1—Textbook and Resource Allowance (State Secondary Schools/Secondary Departments)**

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**Form 58 Version 1—Living Away From Home Allowance**

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## **9 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated into this reprint because they had not commenced before the reprint date (see Reprints Act 1992 s 5(c)).

**Education (Overseas Students) Act 1996 No. 71 pt 6 reads as follows—**

## **PART 6—AMENDMENT OF EDUCATION (GENERAL PROVISIONS) ACT 1989**

### **Act amended in pt 6**

**36.** This part amends the Education (General Provisions) Act 1989.

**Repeal of s 76 (Restriction on overseas persons receiving instruction)**

**37.** Section 76—

*omit.*