



# Education (General Provisions) Act 2006

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Queensland

# Education (General Provisions) Act 2006

## Contents

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|                  |   | Page |
|------------------|---|------|
| <b>Chapter 1</b> | <b>Preliminary</b>  |      |
| <b>Part 1</b>    | <b>Introduction</b>   |      |
| 1                | Short title . . . . .   | 21   |
| 2                | Commencement . . . . .  | 21   |
| <b>Part 2</b>    | <b>Application</b>  |      |
| 3                | Act binds all persons . . . . .   | 21   |
| 4                | Interaction with other legislation . . . . .  | 22   |
| <b>Part 3</b>    | <b>Objects</b>  |      |
| 5                | Objects of Act . . . . .  | 22   |
| 6                | Activities to achieve objects of ch 10 . . . . .  | 23   |
| <b>Part 4</b>    | <b>Guiding principles for achieving Act's objects</b>   |      |
| 7                | Guiding principles . . . . .  | 24   |
| <b>Part 5</b>    | <b>Interpretation</b>   |      |
| 8                | Definitions . . . . .   | 25   |
| 9                | Meaning of compulsory school age . . . . .  | 26   |
| 10               | Meaning of parent . . . . .   | 26   |
| 11               | Meaning of basic allocation, remaining allocation etc. . . . .  | 26   |
| <b>Chapter 2</b> | <b>State educational institutions</b>   |      |
| <b>Part 1</b>    | <b>State education</b>  |      |
| 12               | Provision of State education . . . . .  | 27   |
| <b>Part 2</b>    | <b>Establishment and naming of State educational institutions</b>   |      |
| 13               | Power to establish State schools . . . . .  | 28   |
| 14               | Power to establish institutions that provide educational instruction to persons enrolled at State schools . . . . . | 28   |
| 15               | Power to establish other educational institutions . . . . .   | 28   |
| 16               | Naming, and changing of name, of a State educational institution . . . . .  | 29   |

|                   |  |    |
|-------------------|--|----|
| <b>Part 3</b>     | <b>Amalgamation or closure of State schools</b>  |    |
| 17                | Definition for pt 3 . . . . .  | 29 |
| 18                | Notice of proposed closure or amalgamation. . . . .  | 29 |
| 19                | Consultation . . . . .   | 29 |
| 20                | Time to elapse before closure or amalgamation . . . . .  | 30 |
| <b>Part 4</b>     | <b>Bases for education provided, and testing, at State instructional institutions</b>                    |    |
| 21                | Curriculum framework for State instructional institutions . . . . .                                      | 30 |
| 22                | Development and revision of 1–12 syllabuses and preparatory guidelines . . . . .                         | 30 |
| 23                | Implementation of syllabus, course or preparatory guideline at State instructional institutions. . . . . | 31 |
| 24                | Direction by Minister about tests . . . . .  | 32 |
| <b>Part 5</b>     | <b>Provisions relating to mature age students</b>  |    |
| <b>Division 1</b> | <b>Preliminary</b>   |    |
| 25                | Definitions for pt 5. . . . .  | 32 |
| 26                | This part applies despite the Criminal Law (Rehabilitation of Offenders) Act 1986. . . . .               | 33 |
| <b>Division 2</b> | <b>Obligation relating to mature age student notices</b>   |    |
| 27                | Obligation of mature age State school's principal . . . . .  | 33 |
| <b>Division 3</b> | <b>Issue of mature age student notices</b>   |    |
| 28                | Application for mature age student notice . . . . .  | 34 |
| 29                | Decision on application . . . . .  | 35 |
| 30                | Chief executive to invite submissions from person about criminal history . . . . .                       | 36 |
| 31                | Currency of positive notice. . . . .   | 37 |
| <b>Division 4</b> | <b>Provisions about criminal history</b>   |    |
| 32                | Criminal history check etc. . . . .  | 37 |
| 33                | Notice of change in criminal history . . . . .   | 38 |
| 34                | Disclosure of change in criminal history. . . . .  | 39 |
| 35                | Requirements for disclosure. . . . .   | 39 |
| 36                | Use of criminal history information. . . . .   | 40 |
| 37                | Confidentiality of information about criminal history. . . . .   | 40 |
| <b>Division 5</b> | <b>Cancellation and replacement of positive notices</b>  |    |
| 38                | Wrong, incomplete or new information. . . . .  | 41 |
| <b>Division 6</b> | <b>Review of decisions</b>   |    |
| 39                | Definition for div 6. . . . .  | 42 |
| 40                | Who may apply for review . . . . .   | 42 |

---

|                   |   |    |
|-------------------|---|----|
| 41                | Applying for review . . . . .   | 42 |
| 42                | Review decision . . . . .   | 42 |
| <b>Division 7</b> | <b>General provisions</b>   |    |
| 43                | False or misleading information or documents . . . . .                              | 43 |
| 44                | Time limit on new application for mature age student notice . . . . .               | 44 |
| <b>Part 6</b>     | <b>Miscellaneous provisions</b>   |    |
| 45                | Inspection of State educational institution's premises . . . . .                    | 44 |
| 46                | Investigation of complaint . . . . .  | 44 |
| 47                | Use of State educational institution's premises . . . . .                           | 45 |
| <b>Chapter 3</b>  | <b>Cost of providing State education</b>  |    |
| 48                | Definitions for ch 3 . . . . .  | 45 |
| 49                | Meaning of remote area . . . . .  | 45 |
| 50                | State education to be free . . . . .  | 46 |
| 51                | Power to charge particular persons or for particular educational services . . . . . | 46 |
| 52                | Fee for distance education provided by a State school . . . . .                     | 47 |
| 53                | When fee for distance education is not payable . . . . .                            | 48 |
| 54                | Waiver of fee for distance education . . . . .                                      | 50 |
| 55                | Charging for specialised educational program . . . . .                              | 51 |
| 56                | Voluntary financial contribution . . . . .  | 52 |
| <b>Chapter 4</b>  | <b>Allocation of State education</b>  |    |
| <b>Part 1</b>     | <b>Preliminary</b>  |    |
| 57                | Definition for ch 4 . . . . .   | 52 |
| 58                | Application of chapter to student under 16 years . . . . .                          | 52 |
| 59                | Allocation of semesters for each student . . . . .                                  | 53 |
| <b>Part 2</b>     | <b>Basic allocation and remaining allocation</b>                                    |    |
| 60                | Basic allocation . . . . .  | 53 |
| 61                | Remaining allocation . . . . .  | 53 |
| 62                | Principal must consider remaining allocation for certain students . . . . .         | 55 |
| 63                | Notice to certain students about remaining allocation . . . . .                     | 56 |
| 64                | Information to be given to repeating student . . . . .                              | 56 |
| <b>Part 3</b>     | <b>Extra semesters may be granted by principals</b>                                 |    |
| 65                | Application for extra semesters if no remaining allocation . . . . .                | 57 |
| 66                | Principal must consider and decide application for extra semesters . . . . .        | 57 |
| 67                | Limitation on extra semesters granted by principals . . . . .                       | 58 |

|                  |  |    |
|------------------|--|----|
| <b>Part 4</b>    | <b>Submissions against principal's decision</b>  |    |
| 68               | Submissions against principal's decision . . . . .   | 58 |
| 69               | Dealing with submissions against principal's decision . . . . .                                  | 59 |
| <b>Part 5</b>    | <b>Further semesters may be granted by chief executive</b>                                       |    |
| 70               | Definition for pt 5 . . . . .  | 60 |
| 71               | Application for further semesters if no remaining allocation and after extra semesters . . . . . | 60 |
| 72               | Chief executive must consider and decide application for further semesters . . . . .             | 60 |
| 73               | Chief executive to give notice to principal if further semesters granted . . . . .               | 61 |
| 74               | Limitation on further semesters granted by chief executive . . . . .                             | 62 |
| <b>Part 6</b>    | <b>Copy of notice to be given to parent</b>  |    |
| 75               | Copy of notice under this chapter to be given to parent . . . . .                                | 62 |
| <b>Chapter 5</b> | <b>Religious instruction</b>   |    |
| 76               | Religious instruction in school hours . . . . .  | 63 |
| <b>Chapter 6</b> | <b>School councils</b>   |    |
| <b>Part 1</b>    | <b>Preliminary</b>   |    |
| 77               | Definitions for ch 6 . . . . .   | 64 |
| <b>Part 2</b>    | <b>Object of chapter</b>   |    |
| 78               | Object . . . . .   | 65 |
| <b>Part 3</b>    | <b>Establishment, name, functions and other matters</b>  |    |
| 79               | Establishment . . . . .  | 65 |
| 80               | Name . . . . .   | 66 |
| 81               | Functions . . . . .  | 66 |
| 82               | School councils do not have certain powers . . . . .   | 67 |
| <b>Part 4</b>    | <b>Membership</b>  |    |
| 83               | Membership of a school council . . . . .   | 67 |
| 84               | Number . . . . .   | 67 |
| 85               | Official members . . . . .   | 68 |
| 86               | Elected members . . . . .  | 68 |
| 87               | Coopted student member . . . . .   | 68 |
| 88               | Alternative association member . . . . .   | 69 |
| 89               | Chairperson . . . . .  | 69 |
| 90               | Term of office for elected member or appointed member . . . . .                                  | 70 |
| 91               | Casual vacancy in office of elected member or appointed member . . . . .                         | 70 |
| 92               | Vacation of office . . . . .   | 71 |

---

|                  |  |    |
|------------------|--|----|
| 93               | Disqualification from membership . . . . .                           | 72 |
| <b>Part 5</b>    | <b>Constitution</b>  |    |
| 94               | Constitution for school council . . . . .                            | 72 |
| 95               | Amendment of school council's constitution . . . . .                 | 73 |
| 96               | Model constitutions for school councils . . . . .                    | 74 |
| <b>Part 6</b>    | <b>Council business</b>  |    |
| 97               | Conduct of business . . . . .  | 75 |
| 98               | Time and place of meetings . . . . .                                 | 75 |
| 99               | Quorum . . . . .   | 75 |
| 100              | Presiding at meetings . . . . .                                      | 75 |
| 101              | Conduct of meetings . . . . .  | 76 |
| 102              | Attendance by proxy . . . . .  | 76 |
| 103              | Disclosure of interest . . . . .                                     | 76 |
| <b>Part 7</b>    | <b>Application of other laws</b>                                     |    |
| 104              | Criminal Law (Rehabilitation of Offenders) Act 1986 . . . . .        | 78 |
| 105              | Public Records Act 2002 . . . . .                                    | 78 |
| 106              | Freedom of Information Act 1992 . . . . .                            | 78 |
| 107              | Public Sector Ethics Act 1994 . . . . .                              | 78 |
| <b>Part 8</b>    | <b>Starting up</b>   |    |
| 108              | Purpose and application . . . . .                                    | 79 |
| 109              | Initial constitution . . . . .                                       | 79 |
| 110              | Initial membership . . . . .   | 81 |
| 111              | First elected members and appointed members . . . . .                | 81 |
| <b>Part 9</b>    | <b>Dissolution</b>   |    |
| 112              | Dissolution of a school council . . . . .                            | 81 |
| 113              | Records . . . . .  | 82 |
| <b>Part 10</b>   | <b>Miscellaneous</b>   |    |
| 114              | School council not to establish committee or subcommittee . . . . .  | 82 |
| 115              | Expense of attending meetings . . . . .                              | 82 |
| 116              | Minister's power to give directions in the public interest . . . . . | 83 |
| 117              | Protection from liability . . . . .                                  | 83 |
| <b>Chapter 7</b> | <b>Parents and citizens associations</b>                             |    |
| <b>Part 1</b>    | <b>Formation, objectives etc. of an association</b>                  |    |
| 118              | Formation of parents and citizens association . . . . .              | 84 |
| 119              | Formation of interim parents and citizens association . . . . .      | 84 |
| 120              | Objectives of an association . . . . .                               | 85 |
| 121              | Functions of an association . . . . .                                | 85 |

|               |   |    |
|---------------|---|----|
| 122           | Dissolution of an association . . . . .   | 86 |
| <b>Part 2</b> | <b>Officers of an association</b>   |    |
| 123           | Officers . . . . .  | 86 |
| 124           | Vacation of office . . . . .  | 87 |
| <b>Part 3</b> | <b>Executive committee of an association</b>  |    |
| 125           | Executive committee . . . . .   | 88 |
| 126           | Restriction on who may be a member of executive committee . .   | 88 |
| 127           | Urgent matters . . . . .  | 89 |
| <b>Part 4</b> | <b>Business of an association</b>   |    |
| 128           | Presiding at meetings . . . . .   | 89 |
| 129           | Voting . . . . .  | 89 |
| <b>Part 5</b> | <b>Subcommittees of an association</b>  |    |
| 130           | Subcommittees . . . . .   | 90 |
| <b>Part 6</b> | <b>Constitution of an association</b>   |    |
| 131           | Constitution . . . . .  | 90 |
| <b>Part 7</b> | <b>Financial provisions</b>   |    |
| 132           | Use of money received by association . . . . .  | 91 |
| 133           | Association is statutory body under the Statutory Bodies<br>Financial Arrangements Act 1982 . . . . . | 91 |
| 134           | Financial year . . . . .  | 91 |
| 135           | Audit of accounts . . . . .   | 91 |
| <b>Part 8</b> | <b>Relevant agreements</b>  |    |
| 136           | Definition for pt 8 . . . . .   | 92 |
| 137           | Power to enter into relevant agreements . . . . .   | 92 |
| 138           | President to sign relevant agreement for an association . . . . .                                     | 93 |
| <b>Part 9</b> | <b>General provisions</b>   |    |
| 139           | Regulation may provide for membership . . . . .   | 93 |
| 140           | Register of members . . . . .   | 93 |
| 141           | Protection from liability . . . . .   | 94 |
| 142           | Association may employ . . . . .  | 94 |
| 143           | Mandatory insurance cover . . . . .   | 94 |
| 144           | Proceedings . . . . .   | 94 |
| 145           | Notice of claim given under Personal Injuries Proceedings Act<br>2002, s 9(1) . . . . .               | 95 |
| 146           | Authority of an association . . . . .   | 95 |
| 147           | Disclosure of interests by members of an association . . . . .  | 96 |
| 148           | Honorary life membership of an association . . . . .  | 97 |



|                   |   |     |
|-------------------|---|-----|
| <b>Part 10</b>    | <b>Removal of members and officers of an association</b>  |     |
| 149               | Definitions for pt 10 . . . . .   | 97  |
| 150               | Removal of nominated person . . . . .   | 98  |
| 151               | Grounds for removal. . . . .  | 98  |
| 152               | Procedure for removal of nominated person . . . . .   | 99  |
| 153               | Submissions against removal. . . . .  | 100 |
| 154               | Dealing with submissions against removal. . . . .   | 101 |
| <b>Chapter 8</b>  | <b>Enrolment at State schools</b>   |     |
| <b>Part 1</b>     | <b>Applications for enrolment</b>   |     |
| <b>Division 1</b> | <b>Requirements for enrolment</b>   |     |
| 155               | Application . . . . .   | 102 |
| 156               | Enrolment. . . . .  | 102 |
| <b>Division 2</b> | <b>Applications relating to prospective students who are a risk to the safety or wellbeing of certain persons</b> |     |
| 157               | Application of div 2 . . . . .  | 103 |
| 158               | Not a risk to safety or wellbeing . . . . .   | 103 |
| 159               | Risk to safety or wellbeing . . . . .   | 103 |
| 160               | Representations about show cause notice. . . . .  | 104 |
| 161               | Ending show cause process without further action . . . . .  | 104 |
| 162               | Refusal of enrolment . . . . .  | 105 |
| 163               | Time limit on making another application for enrolment. . . . .   | 105 |
| <b>Division 3</b> | <b>Enrolment at special schools</b>   |     |
| 164               | Application of div 3 . . . . .  | 105 |
| 165               | Meaning of person with a disability . . . . .   | 105 |
| 166               | Requirements for enrolment satisfied. . . . .   | 106 |
| 167               | Requirements for enrolment not satisfied. . . . .   | 107 |
| <b>Part 2</b>     | <b>Enrolment agreements</b>   |     |
| 168               | Requirements relating to enrolment agreements . . . . .   | 107 |
| <b>Part 3</b>     | <b>Enrolment management plans</b>   |     |
| 169               | Definitions for pt 3. . . . .   | 108 |
| 170               | Preparation of enrolment management plan . . . . .  | 109 |
| 171               | Applicant for enrolment—residing in catchment area. . . . .   | 110 |
| 172               | Applicant for enrolment—residing outside catchment area . . . . .   | 110 |
| <b>Part 4</b>     | <b>Enrolment eligibility plans</b>  |     |
| 173               | Definitions for pt 4. . . . .   | 111 |
| 174               | Preparation of enrolment eligibility plan . . . . .   | 111 |
| 175               | Application for enrolment . . . . .   | 111 |

|                   |   |     |
|-------------------|---|-----|
| <b>Chapter 9</b>  | <b>Compulsory schooling</b>   |     |
| <b>Part 1</b>     | <b>Compulsory schooling requirement</b>   |     |
| <b>Division 1</b> | <b>Parents' obligations</b>   |     |
| 176               | Obligation of each parent . . . . .   | 112 |
| 177               | What is attendance. . . . .   | 113 |
| 178               | Notice to, and meeting with, parent . . . . .                                       | 113 |
| 179               | Limits on proceedings against a parent . . . . .                                    | 114 |
| <b>Division 2</b> | <b>Chief executive may obtain information from non-State schools</b>                |     |
| 180               | Notice to principal of non-State school. . . . .                                    | 115 |
| 181               | Protection from liability . . . . .   | 115 |
| <b>Part 2</b>     | <b>Flexible arrangements</b>  |     |
| 182               | Flexible arrangements—non-State school . . . . .                                    | 116 |
| 183               | Flexible arrangements—State school. . . . .   | 118 |
| <b>Part 3</b>     | <b>Exemption from compliance with compulsory schooling requirement</b>              |     |
| <b>Division 1</b> | <b>Preliminary</b>  |     |
| 184               | Definition for pt 3 . . . . .   | 119 |
| <b>Division 2</b> | <b>Bases for granting an exemption</b>  |     |
| 185               | Attendance is impossible or should not be required. . . . .                         | 119 |
| <b>Division 3</b> | <b>Application process</b>  |     |
| 186               | Application for exemption . . . . .   | 119 |
| 187               | Lapsing of application. . . . .   | 120 |
| 188               | Temporary exemption until application is decided . . . . .                          | 120 |
| 189               | Decision . . . . .  | 120 |
| 190               | Contents of exemption . . . . .   | 121 |
| 191               | Imposition of conditions . . . . .  | 121 |
| 192               | Lesser period of exemption than that applied for . . . . .                          | 121 |
| <b>Division 4</b> | <b>Cancellation of exemption</b>  |     |
| 193               | Grounds for cancellation. . . . .   | 122 |
| 194               | Show cause notice . . . . .   | 122 |
| 195               | Representations about show cause notice. . . . .                                    | 122 |
| 196               | Ending show cause process without further action . . . . .                          | 123 |
| 197               | Cancellation . . . . .  | 123 |
| <b>Part 4</b>     | <b>Other circumstances in which compulsory schooling requirement does not apply</b> |     |
| 198               | Activities under Commonwealth law. . . . .  | 124 |
| 199               | Home education . . . . .  | 124 |

---

|                   |  |     |
|-------------------|--|-----|
| 200               | Child's exclusion or suspension . . . . .                                      | 124 |
| 201               | Child's illness . . . . .  | 125 |
| 202               | Infectious or contagious disease or condition. . . . .                         | 126 |
| 203               | Application for enrolment pending . . . . .                                    | 126 |
| 204               | Apprentice or trainee under the VETE Act . . . . .                             | 126 |
| <b>Part 5</b>     | <b>Home education</b>  |     |
| <b>Division 1</b> | <b>Preliminary</b>   |     |
| 205               | Definitions for pt 5. . . . .  | 126 |
| 206               | Who is eligible for provisional registration or registration . . . . .         | 127 |
| <b>Division 2</b> | <b>Applications for provisional registration</b>                               |     |
| 207               | Provisional registration . . . . .   | 127 |
| <b>Division 3</b> | <b>Applications for registration</b>   |     |
| 208               | Procedural requirements for application. . . . .                               | 128 |
| 209               | Withdrawal of application . . . . .  | 129 |
| 210               | Chief executive must ensure compliance with procedural requirements . . . . .  | 129 |
| 211               | Chief executive may require further information or documents . . . . .         | 129 |
| 212               | Child taken to be provisionally registered while application decided . . . . . | 130 |
| 213               | Decision . . . . .   | 131 |
| 214               | Steps to be taken after application decided . . . . .                          | 131 |
| 215               | Failure to decide application. . . . .   | 131 |
| 216               | Minimum details to be recorded on certificate of registration. . . . .         | 132 |
| <b>Division 4</b> | <b>Conditions of registration</b>  |     |
| 217               | Standard conditions . . . . .  | 132 |
| 218               | Imposition of conditions . . . . .   | 133 |
| 219               | Changing conditions. . . . .   | 133 |
| 220               | Replacing certificate of registration . . . . .                                | 134 |
| <b>Division 5</b> | <b>Cancellation of registration</b>  |     |
| 221               | Grounds for cancellation. . . . .  | 134 |
| 222               | Show cause notice . . . . .  | 134 |
| 223               | Representations about show cause notice. . . . .                               | 135 |
| 224               | Ending show cause process without further action . . . . .                     | 135 |
| 225               | Cancellation . . . . .   | 135 |
| 226               | Return of cancelled certificate of registration to chief executive. . . . .    | 136 |
| <b>Division 6</b> | <b>Surrender of provisional registration or registration</b>                   |     |
| 227               | Surrender . . . . .  | 136 |

|                   |   |     |
|-------------------|---|-----|
| 228               | Obligation to surrender . . . . .   | 137 |
| <b>Division 7</b> | <b>Miscellaneous</b>  |     |
| 229               | Simultaneous enrolment at State school or non-State school prohibited . . . . . | 137 |
| <b>Part 6</b>     | <b>Employment of children</b>   |     |
| 230               | Employment of child who is of compulsory school age . . . . .                   | 138 |
| <b>Chapter 10</b> | <b>Compulsory participation in education or training</b>                        |     |
| <b>Part 1</b>     | <b>Key terms</b>  |     |
| 231               | Compulsory participation phase . . . . .  | 139 |
| 232               | Eligible options and providers. . . . .   | 140 |
| <b>Part 2</b>     | <b>Participation in a program or course</b>                                     |     |
| 233               | Application of pt 2. . . . .  | 140 |
| 234               | What is participation. . . . .  | 140 |
| 235               | Full-time participation . . . . .   | 141 |
| 236               | Allowed absence . . . . .   | 142 |
| 237               | Suspension or exclusion. . . . .  | 142 |
| <b>Part 3</b>     | <b>Participation in an apprenticeship or traineeship</b>                        |     |
| 238               | Participation in an apprenticeship or traineeship . . . . .                     | 143 |
| <b>Part 4</b>     | <b>Parents' obligation</b>  |     |
| 239               | Obligation to ensure participation. . . . .                                     | 143 |
| 240               | Exceptions to obligation . . . . .  | 144 |
| 241               | Notice to, and meeting with, parent . . . . .                                   | 144 |
| 242               | Limits on proceedings against a parent . . . . .                                | 145 |
| <b>Part 5</b>     | <b>Exemptions from compliance with compulsory participation requirements</b>    |     |
| <b>Division 1</b> | <b>Bases for granting an exemption</b>  |     |
| 243               | Explanation. . . . .  | 146 |
| 244               | Participation is impossible or should not be required. . . . .                  | 146 |
| <b>Division 2</b> | <b>Application process</b>  |     |
| 245               | Application for exemption . . . . .   | 147 |
| 246               | Lapsing of application. . . . .   | 147 |
| 247               | Temporary exemption until application is decided . . . . .                      | 148 |
| 248               | Decision . . . . .  | 148 |
| 249               | Contents of exemption . . . . .   | 149 |
| 250               | Imposition of conditions . . . . .  | 149 |
| 251               | Lesser period of exemption than that applied for . . . . .                      | 149 |

|                   |  |     |
|-------------------|--|-----|
| <b>Part 6</b>     | <b>Miscellaneous</b>   |     |
| 251A              | Disclosure by chief executive to appropriate entities . . . . .  | 150 |
| 251B              | Consultation about planning . . . . .  | 150 |
| 251C              | Transitional . . . . .   | 150 |
| 251D              | Confidentiality . . . . .  | 151 |
| 251E              | Delegation by chief executive . . . . .  | 152 |
| <b>Chapter 12</b> | <b>Good order and management of State educational institutions and non-State schools</b>                                       |     |
| <b>Part 1</b>     | <b>Preliminary</b>   |     |
| 274               | Definition for ch 12 . . . . .   | 152 |
| <b>Part 2</b>     | <b>Behaviour plans for State schools</b>   |     |
| 275               | Definition for pt 2 . . . . .  | 153 |
| 276               | Requirement for approved behaviour plan for a State school . . .   | 153 |
| 277               | Principal is responsible for developing behaviour plan . . . . .   | 153 |
| 278               | Implementation of plan . . . . .   | 154 |
| 279               | Review of plan . . . . .   | 154 |
| 280               | Plan to be available for inspection . . . . .  | 154 |
| 281               | Copies of plan to be given to parents and students . . . . .   | 155 |
| 282               | Copy of plan to be given to applicant for enrolment . . . . .  | 155 |
| <b>Part 3</b>     | <b>Detention of students enrolled at State schools</b>   |     |
| 283               | Detention . . . . .  | 155 |
| <b>Part 4</b>     | <b>Suspension, exclusion and cancellation of enrolment of, and behaviour improvement conditions for, State school students</b> |     |
| <b>Division 1</b> | <b>Suspension of students</b>  |     |
| 284               | Grounds for suspension of student . . . . .  | 157 |
| 285               | Suspension of student . . . . .  | 157 |
| 286               | Continuing education during suspension . . . . .   | 158 |
| 287               | Submissions against suspensions for more than 5 school days .  | 159 |
| 288               | Dealing with submissions against suspensions . . . . .   | 159 |
| <b>Division 2</b> | <b>Exclusion of students by principals' supervisors</b>  |     |
| 289               | Grounds for exclusion of student by principal's supervisor . . . . .   | 160 |
| 290               | Suspension pending dealing with recommendation for exclusion   | 160 |
| 291               | Continuing education during suspension . . . . .   | 162 |
| 292               | Submissions against suspension and recommendation for exclusion . . . . .  | 162 |
| 293               | Exclusion of student by principal's supervisor . . . . .   | 162 |
| 294               | Decision not to exclude student . . . . .  | 164 |

---

|                   |  |     |
|-------------------|--|-----|
| 295               | Meeting with excluded student's parent . . . . .   | 164 |
| 296               | Effect of exclusion on enrolment . . . . .   | 165 |
| <b>Division 3</b> | <b>Exclusion of students by chief executive</b>  |     |
| 297               | Chief executive's power to exclude student . . . . .   | 165 |
| 298               | Grounds for exclusion of student by chief executive. . . . .   | 166 |
| 299               | Grounds for exclusion of mature age student by chief executive . . . . .   | 166 |
| 300               | Suspension pending final decision about exclusion. . . . .   | 166 |
| 301               | Submissions against proposed exclusion. . . . .  | 168 |
| 302               | Exclusion of student by chief executive . . . . .  | 168 |
| 303               | Effect of exclusion on enrolment . . . . .   | 170 |
| 304               | Continuing education of certain excluded student . . . . .   | 170 |
| <b>Division 4</b> | <b>Exclusion of prospective students by chief executive</b>  |     |
| 305               | Application of div 4 . . . . .   | 170 |
| 306               | Risk to safety or wellbeing . . . . .  | 170 |
| 307               | Representations about show cause notice. . . . .   | 171 |
| 308               | Ending show cause process without further action . . . . .   | 171 |
| 309               | Exclusion . . . . .  | 172 |
| 310               | Continuing education of certain excluded student . . . . .   | 173 |
| <b>Division 5</b> | <b>Review of particular exclusion decisions</b>  |     |
| 311               | Application of div 5 . . . . .   | 173 |
| 312               | Submission against exclusion decision . . . . .  | 173 |
| 313               | Dealing with submissions against exclusions. . . . .   | 174 |
| <b>Division 6</b> | <b>Periodic review of certain decisions to exclude permanently</b>   |     |
| 314               | Periodic review of decision to exclude permanently on ground mentioned in s 289 or 298—person under 17 years . . . . .           | 175 |
| 315               | Periodic review of decision to exclude permanently on ground mentioned in s 289 or 298—person aged from 17 to 24 years . . . . . | 177 |
| <b>Division 7</b> | <b>Cancellation of enrolment of students above compulsory school age</b>   |     |
| 316               | Ground for cancelling enrolment of student more than compulsory school age. . . . .  | 179 |
| 317               | Show cause notice . . . . .  | 179 |
| 318               | Representations about show cause notice. . . . .   | 180 |
| 319               | Ending show cause process without further action . . . . .   | 181 |
| 320               | Cancellation of student's enrolment . . . . .  | 181 |
| 321               | Submission against cancellation of enrolment . . . . .   | 182 |
| 322               | Dealing with submission against cancellation of enrolment. . . . .   | 182 |

|                   |   |     |
|-------------------|---|-----|
| <b>Division 8</b> | <b>Behaviour improvement conditions</b>   |     |
| 323               | Definitions for div 8 . . . . .   | 183 |
| 324               | Imposition of behaviour improvement condition by principal . . . .  | 183 |
| 325               | Review of decision about imposition of behaviour improvement condition . . . . .  | 185 |
| 326               | Removal of behaviour improvement condition . . . . .  | 185 |
| 327               | Change of behaviour improvement condition . . . . .   | 186 |
| <b>Division 9</b> | <b>Other provisions</b>   |     |
| 328               | Definitions for div 9 . . . . .   | 187 |
| 329               | No entitlement to enrolment at another State school during suspension . . . . .   | 187 |
| 330               | Copy of notices under this part to be given to parent. . . . .  | 187 |
| 331               | Submissions, representations or applications about suspensions etc. . . . .   | 188 |
| 332               | When decisions take effect. . . . .   | 188 |
| <b>Part 5</b>     | <b>Wilful disturbance and trespass at State educational institutions</b>  |     |
| 333               | Wilful disturbance . . . . .  | 188 |
| 334               | Trespass . . . . .  | 189 |
| <b>Part 6</b>     | <b>Directions and orders about conduct or movement at, or entry to, premises of State instructional institutions</b>          |     |
| <b>Division 1</b> | <b>Preliminary</b>  |     |
| 335               | Definitions for pt 6 . . . . .  | 189 |
| <b>Division 2</b> | <b>Powers relating to name and address</b>  |     |
| 336               | Person may be required to state name and address . . . . .  | 190 |
| <b>Division 3</b> | <b>Directions about conduct or movement at premises of State instructional institutions</b>                                   |     |
| 337               | Direction about conduct or movement . . . . .   | 191 |
| 338               | Review of direction under s 337 . . . . .   | 192 |
| <b>Division 4</b> | <b>Directions to leave and not re-enter premises of State instructional institutions for 24 hours</b>                         |     |
| 339               | Direction to leave and not re-enter . . . . .   | 193 |
| <b>Division 5</b> | <b>Prohibition from entering premises of State instructional institutions for up to 60 days</b>                               |     |
| 340               | Prohibition from entering premises. . . . .   | 194 |
| <b>Division 6</b> | <b>Prohibition from entering premises of State instructional institutions for more than 60 days, but not more than 1 year</b> |     |
| 341               | Prohibition from entering premises. . . . .   | 195 |
| 342               | Appeal to District Court . . . . .  | 196 |

|                   |  |     |
|-------------------|--|-----|
| <b>Part 7</b>     | <b>Directions and orders about conduct or movement at, or entry to, premises of non-State schools</b>                    |     |
| <b>Division 1</b> | <b>Preliminary</b>   |     |
| 343               | Definitions for pt 7 . . . . .   | 196 |
| <b>Division 2</b> | <b>Powers relating to name and address</b>   |     |
| 344               | Person may be required to state name and address . . . . .   | 196 |
| <b>Division 3</b> | <b>Directions about conduct or movement at premises of non-State schools</b>   |     |
| 345               | Review body . . . . .  | 197 |
| 346               | Direction about conduct or movement . . . . .  | 197 |
| 347               | Review of direction under s 346 . . . . .  | 198 |
| <b>Division 4</b> | <b>Directions to leave and not re-enter premises of non-State schools for 24 hours</b>                                   |     |
| 348               | Direction to leave and not re-enter . . . . .  | 199 |
| <b>Division 5</b> | <b>Prohibition from entering premises of non-State schools for up to 60 days</b>   |     |
| 349               | Prohibition from entering premises . . . . .   | 200 |
| <b>Division 6</b> | <b>Prohibition from entering premises of non-State schools for more than 60 days, but not more than 1 year</b>           |     |
| 350               | Prohibition from entering premises . . . . .   | 201 |
| 351               | Appeal to District Court . . . . .   | 202 |
| <b>Part 8</b>     | <b>Prohibition from entering premises of all State instructional institutions and non-State schools for up to 1 year</b> |     |
| 352               | Prohibition from entering premises of all State instructional institutions and non-State schools . . . . .               | 202 |
| 353               | Prohibition from entering premises of all State instructional institutions . . . . .                                     | 203 |
| 354               | Appeal to District Court . . . . .   | 203 |
| <b>Part 9</b>     | <b>Provisions relating to parts 6 to 8</b>   |     |
| 355               | Non-application of pts 6 and 7 to particular persons . . . . .   | 203 |
| 356               | Notification of application or direction . . . . .   | 204 |
| 357               | Noncompliance with court order . . . . .   | 204 |
| 358               | Annual report of department to include report on various matters   | 204 |
| 359               | Non-State school's governing body to give particular information to Minister . . . . .                                   | 205 |
| <b>Part 10</b>    | <b>Dress code</b>  |     |
| 360               | Development of dress code . . . . .  | 206 |
| 361               | Guidelines for dress code . . . . .  | 207 |
| 362               | Noncompliance with dress code . . . . .  | 207 |
| 363               | Dress code to be available for inspection . . . . .  | 208 |



|                   |   |     |
|-------------------|---|-----|
| <b>Part 11</b>    | <b>Reporting of sexual abuse</b>  |     |
| 364               | Definition for pt 11 . . . . .  | 209 |
| 365               | Obligation to report sexual abuse of student under 18 years attending State school . . . . .    | 209 |
| 366               | Obligation to report sexual abuse of student under 18 years attending non-State school. . . . . | 210 |
| <b>Chapter 13</b> | <b>Schools in receipt of subsidy</b>  |     |
| <b>Part 1</b>     | <b>Preliminary</b>  |     |
| 367               | Definitions for ch 13 . . . . .   | 211 |
| <b>Part 2</b>     | <b>Scholarships and allowances</b>  |     |
| 368               | Provision of scholarships and payment of allowances . . . . .                                   | 212 |
| 369               | Minister's policy . . . . .   | 212 |
| <b>Part 3</b>     | <b>Financial data</b>   |     |
| 370               | Requirement to give financial data . . . . .  | 213 |
| 371               | Further information or documents relating to financial data . . . . .                           | 214 |
| 372               | False or misleading information or documents . . . . .  | 214 |
| 373               | Confidentiality of financial data. . . . .  | 215 |
| <b>Part 4</b>     | <b>Giving of allowance acquittal details</b>  |     |
| 374               | Allowance acquittal details . . . . .   | 216 |
| 375               | Annual report . . . . .   | 216 |
| 376               | Show cause notice . . . . .   | 216 |
| 377               | Representations about show cause notice. . . . .  | 217 |
| 378               | Ending show cause process without further action . . . . .                                      | 217 |
| 379               | Recommendation by board . . . . .   | 217 |
| 380               | Decision of Minister . . . . .  | 218 |
| 381               | Minister's discretion not limited. . . . .  | 218 |
| <b>Part 5</b>     | <b>Other provisions</b>   |     |
| 382               | False or misleading statement . . . . .   | 219 |
| <b>Chapter 14</b> | <b>Transfer notes</b>   |     |
| <b>Part 1</b>     | <b>Preliminary</b>  |     |
| 383               | Definition for ch 14 . . . . .  | 219 |
| 384               | Meaning of transfer note. . . . .   | 220 |
| 385               | Purpose of giving transfer note . . . . .   | 220 |
| <b>Part 2</b>     | <b>Request for transfer notes</b>   |     |
| 386               | Cessation of enrolment . . . . .  | 220 |
| 387               | Application for enrolment . . . . .   | 222 |
| 388               | Transfer of records between State schools . . . . .   | 224 |

|                   |  |     |
|-------------------|--|-----|
| <b>Part 3</b>     | <b>Protection from liability</b>   |     |
| 389               | Protection from liability . . . . .  | 224 |
| <b>Chapter 15</b> | <b>Reviews and appeals</b>   |     |
| <b>Part 1</b>     | <b>Reviews of decisions by chief executive</b>                             |     |
| 390               | Who may apply for review . . . . .   | 225 |
| 391               | Application for review . . . . .   | 225 |
| 392               | Review decision . . . . .  | 225 |
| <b>Part 2</b>     | <b>Appeal against review decisions</b>                                     |     |
| 393               | Application of pt 2. . . . .   | 226 |
| 394               | Appeal to Magistrates Court. . . . .                                       | 226 |
| 395               | Conduct of appeal . . . . .  | 227 |
| <b>Part 3</b>     | <b>Appeals against directions under section 340 or 349</b>                 |     |
| 396               | Definition for pt 3 . . . . .  | 227 |
| 397               | Who may appeal. . . . .  | 228 |
| 398               | Starting an appeal . . . . .   | 228 |
| 399               | Hearing procedures . . . . .   | 228 |
| 400               | Powers of court on appeal . . . . .  | 229 |
| <b>Part 4</b>     | <b>Appeal against decision under section 69, 72, 154, 302(4) or 309(6)</b> |     |
| 401               | Definitions for pt 4. . . . .  | 229 |
| 402               | Appeal . . . . .   | 230 |
| <b>Chapter 16</b> | <b>Legal proceedings</b>   |     |
| <b>Part 1</b>     | <b>Evidence</b>  |     |
| 403               | Application of pt 1. . . . .   | 231 |
| 404               | Definition for pt 1 . . . . .  | 231 |
| 405               | Appointments and authority . . . . .                                       | 231 |
| 406               | Signatures . . . . .   | 231 |
| 407               | Other evidentiary aids . . . . .   | 231 |
| <b>Part 2</b>     | <b>Offence proceedings</b>   |     |
| 408               | Summary proceedings for offences . . . . .                                 | 233 |
| 409               | Statements at start of proceedings . . . . .                               | 233 |
| 410               | Evidence of chief executive's consent . . . . .                            | 233 |
| <b>Chapter 17</b> | <b>Minister's powers</b>   |     |
| 411               | Power of Minister to be member of entity . . . . .                         | 234 |
| 412               | Establishment of advisory committees . . . . .                             | 234 |
| 413               | Forming or establishing entities for furthering education . . . . .        | 234 |

|                   |  |     |
|-------------------|--|-----|
| <b>Chapter 18</b> | <b>International educational institutions</b>  |     |
| 414               | Definitions for ch 18 . . . . .  | 235 |
| 415               | Limitation on operation of international educational institution . . .                         | 236 |
| 416               | Recommendation by Minister . . . . .   | 236 |
| 417               | Conditions of approval . . . . .   | 236 |
| 418               | Criminal history reports . . . . .   | 237 |
| 419               | Payment of allowances . . . . .  | 237 |
| <b>Chapter 19</b> | <b>Miscellaneous</b>   |     |
| 420               | Special education . . . . .  | 238 |
| 421               | Transportation assistance for certain students . . . . .                                       | 238 |
| 422               | Grants to entities . . . . .   | 238 |
| 423               | Annual reporting by State school's principal or non-State<br>school's governing body . . . . . | 239 |
| 424               | Parent and teacher discussions . . . . .   | 240 |
| 425               | Student reports . . . . .  | 240 |
| 426               | Confidentiality . . . . .  | 240 |
| 427               | Homework guidelines for State schools . . . . .  | 242 |
| 428               | Collection of demographic information . . . . .  | 243 |
| 429               | Chief executive's directions about State school records and<br>reports . . . . .               | 243 |
| 429A              | Prohibition on use of certain terms . . . . .  | 243 |
| 430               | Failure to decide application . . . . .  | 244 |
| 431               | Delegation by Minister . . . . .   | 244 |
| 432               | Delegation by chief executive . . . . .  | 244 |
| 433               | Approval of forms . . . . .  | 245 |
| 434               | Regulation-making power . . . . .  | 245 |
| <b>Chapter 20</b> | <b>Repeal, validations and transitional provisions</b>   |     |
| <b>Part 1</b>     | <b>Repeal of Acts</b>  |     |
| 435               | Repeal . . . . .   | 246 |
| <b>Part 2</b>     | <b>Validations</b>   |     |
| 436               | Validation of fee waiver . . . . .   | 246 |
| <b>Part 3</b>     | <b>Transitional provisions</b>   |     |
| 437               | Definitions for pt 3 . . . . .   | 246 |
| 438               | References to repealed Acts . . . . .  | 247 |
| 439               | Dissolution of corporation sole . . . . .  | 247 |
| 440               | Vesting of assets, rights and liabilities of corporation sole . . . . .                        | 247 |
| 441               | Legal proceedings involving the corporation sole . . . . .                                     | 247 |

---

|     |  |     |
|-----|--|-----|
| 442 | References to corporation sole . . . . .   | 248 |
| 443 | Offences . . . . .   | 248 |
| 444 | Power of Minister to be member of committees etc.. . . . .                                     | 248 |
| 445 | Advisory committees . . . . .  | 249 |
| 446 | State educational institutions . . . . .   | 249 |
| 447 | Curriculum framework and directions. . . . .   | 249 |
| 448 | Chief executive's directions about State school records and reports . . . . .                  | 250 |
| 449 | Religious instruction . . . . .  | 250 |
| 450 | Application for mature age student notices . . . . .   | 250 |
| 451 | Currency of positive notice . . . . .  | 251 |
| 452 | Review of decision to issue negative notice. . . . .   | 251 |
| 453 | Behaviour plans . . . . .  | 251 |
| 454 | Time limit on new application for mature age student notice . . . . .                          | 251 |
| 455 | Suspension of student . . . . .  | 252 |
| 456 | Submission against suspension for more than 5 days . . . . .                                   | 252 |
| 457 | Dealing with submissions against suspension for more than 5 days . . . . .                     | 252 |
| 458 | Recommendation to principal's supervisor of exclusion of student . . . . .                     | 252 |
| 459 | Suspension pending dealing with recommendation for exclusion . . . . .                         | 253 |
| 460 | Submissions against suspension and recommendation for exclusion . . . . .                      | 253 |
| 461 | Exclusion of student by principal's supervisor . . . . .                                       | 253 |
| 462 | Suspension pending final decision about exclusion. . . . .                                     | 253 |
| 463 | Submissions against proposed exclusion. . . . .  | 254 |
| 464 | Exclusion of student by chief executive . . . . .  | 254 |
| 465 | Submission against exclusion decision . . . . .  | 254 |
| 466 | Dealing with submissions against exclusions. . . . .   | 254 |
| 467 | Periodic review of decision to exclude . . . . .   | 254 |
| 468 | Dealing with submissions about whether exclusion should be revoked . . . . .                   | 255 |
| 469 | Cancellation of student's enrolment . . . . .  | 255 |
| 470 | Submission against cancellation of enrolment . . . . .   | 255 |
| 471 | Dealing with submissions against cancellation of enrolment . . . . .                           | 255 |
| 472 | Submissions about suspensions, exclusions or cancellations . . . . .                           | 256 |
| 473 | Directions about conduct or movement at premises of State instructional institutions . . . . . | 256 |

---

|     |  |     |
|-----|--|-----|
| 474 | Directions to leave and not re-enter premises of State instructional institutions . . . . .                        | 257 |
| 475 | Prohibition from entering premises of State instructional institutions . . . . .                                   | 257 |
| 476 | Directions about conduct or movement at premises of non-State schools . . . . .                                    | 257 |
| 477 | Directions to leave and not re-enter premises of non-State schools . . . . .                                       | 258 |
| 478 | Prohibition from entering premises of non-State schools . . . . .  | 258 |
| 479 | Prohibition from entering premises of all State instructional institutions and non-State schools . . . . .         | 259 |
| 480 | Prohibition from entering premises of all State instructional institutions . . . . .                               | 259 |
| 481 | Appeal to District Court . . . . .   | 260 |
| 482 | Department's annual report . . . . .   | 260 |
| 483 | Non-State school's governing body to give particular information to Minister . . . . .                             | 260 |
| 484 | Provisions about school councils . . . . .   | 260 |
| 485 | Provisions about parents and citizens associations . . . . .   | 261 |
| 486 | Provisions about enrolment at State schools . . . . .  | 263 |
| 488 | Exemption from compliance with compulsory enrolment and attendance provisions . . . . .                            | 264 |
| 489 | Application for exemption from compliance with compulsory enrolment and attendance provisions . . . . .            | 264 |
| 490 | Particular dispensation from compliance with compulsory enrolment and attendance provisions . . . . .              | 265 |
| 491 | Particular application for exemption from compliance with compulsory enrolment and attendance provisions . . . . . | 265 |
| 492 | Dispensation from requirement to participate in an eligible option . . . . .                                       | 265 |
| 493 | Home schooling dispensation from requirement to participate in an eligible option . . . . .                        | 266 |
| 494 | Application for exemption from requirement to participate in an eligible option . . . . .                          | 266 |
| 495 | Application for home schooling exemption from requirement to participate in an eligible option . . . . .           | 266 |
| 496 | Student account . . . . .  | 266 |
| 497 | Flexible arrangements . . . . .  | 266 |
| 498 | Principal's decision about student's remaining allocation . . . . .  | 267 |
| 499 | Notice about student's remaining allocation . . . . .  | 267 |
| 500 | Application for extra semesters if no remaining allocation . . . . .   | 267 |
| 501 | Notice about student's extra semesters . . . . .   | 267 |

---

|                     |   |            |
|---------------------|---|------------|
| 502                 | Submissions against decisions about allocation of semesters or application for extra semesters . . . . .              | 268        |
| 503                 | Dealing with submissions against decisions about allocation of semesters or application for extra semesters . . . . . | 268        |
| 504                 | Notice about decisions about allocation of semesters or application for extra semesters . . . . .                     | 268        |
| 505                 | Application for further semesters if no remaining allocation and after extra semesters . . . . .                      | 269        |
| 506                 | Notice about student's further semesters . . . . .  | 269        |
| 507                 | Financial data . . . . .  | 269        |
| 508                 | Finalising show cause process relating to allowances paid for non-State schools . . . . .                             | 270        |
| 509                 | International educational institutions . . . . .  | 270        |
| 510                 | Appeals . . . . .   | 270        |
| 510A                | Limited effect of s 429A for 1 year . . . . .   | 271        |
| <b>Schedule 4</b>   | <b>Dictionary</b> . . . . .   | <b>272</b> |
| <br><b>Endnotes</b> |   |            |
| 1                   | Index to endnotes . . . . .   | 284        |
| 2                   | Date to which amendments incorporated . . . . .   | 284        |
| 3                   | Key . . . . .   | 284        |
| 4                   | Table of reprints . . . . .   | 285        |
| 5                   | List of legislation . . . . .   | 285        |
| 6                   | List of annotations . . . . .   | 286        |
| 7                   | List of forms notified or published in the gazette . . . . .  | 289        |

# **Education (General Provisions) Act 2006**

[as amended by all amendments that commenced on or before 1 July 2008]

**An Act about the education of children and the participation of young people in education and training, and for other purposes**

## **Chapter 1 Preliminary**

### **Part 1 Introduction**

#### **1 Short title**

This Act may be cited as the *Education (General Provisions) Act 2006*.

#### **2 Commencement**

- (1) Section 512(2) and schedule 2 commence on 1 January 2007.
- (2) Section 512(3) and schedule 3 commence on 1 January 2008.
- (3) Subject to subsections (1) and (2), this Act commences on a day to be fixed by proclamation.

### **Part 2 Application**

#### **3 Act binds all persons**

- (1) This Act binds all persons including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.

- (2) Subsection (1) does not make the State, the Commonwealth or another State liable to be prosecuted for an offence.

#### **4 Interaction with other legislation**

- (1) This Act includes—
- (a) provisions requiring young people to continue their schooling until they are 16 years or have completed year 10, whichever happens first; and
  - (b) provisions requiring young people to continue in education and training for a further period for the purpose of achieving a certificate of achievement, senior statement, certificate III or certificate IV.
- (2) The VETE Act includes provisions about some of the eligible options available to young people during this further period of learning.
- (3) The QSA Act includes provisions about keeping student accounts for young people to record their participation in education and training.

### **Part 3 Objects**

#### **5 Objects of Act**

- (1) The objects of this Act are—
- (a) to make available to each Queensland child or young person a high-quality education that will—
    - (i) help maximise his or her educational potential; and
    - (ii) enable him or her to become an effective and informed member of the community; and
  - (b) to provide universal access to high quality State education; and



- (c) for chapter 10<sup>1</sup>—
  - (i) to implement initiatives to ensure young people participate in a period of education or training after they turn 16 years or complete year 10; and
  - (ii) to outline a range of education and training options for them during this period.
- (2) The objects are to be achieved mainly by—
  - (a) placing responsibilities on parents and the State in relation to the education of children and young people; and
  - (b) providing for the establishment of State educational institutions, and facilitating their operation as safe and supportive learning environments; and
  - (c) ensuring education programs are responsive to the individual needs of children and young people; and
  - (d) encouraging a parent’s involvement in his or her child’s education; and
  - (e) encouraging parental and community involvement in the operation of State educational institutions by enabling—
    - (i) the establishment of school councils for State schools; and
    - (ii) the formation of parents and citizens associations for State instructional institutions.

## **6 Activities to achieve objects of ch 10**

To achieve the objects mentioned in section 5(1)(c), the chief executive may—

- (a) carry on the following activities (*planning activities*)—
  - (i) monitoring the operation and effectiveness of chapter 10;
  - (ii) carrying out planning relating to the matters dealt with under chapter 10;

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<sup>1</sup> Chapter 10 (Compulsory participation in education or training)



- (c) children and young people should be actively involved in decisions affecting them to the extent that is appropriate having regard to their age and ability to understand;
- (d) the State, parents, teachers, school communities and non-government entities should work collaboratively to foster a commitment to achieving the best educational outcomes for children and young people;
- (e) for chapter 10—
  - (i) the State should develop practical ways to improve the social, educational and employment outcomes of young people, including, in particular, those who are at risk of disengaging from education and training; and
  - (ii) the State should foster a community commitment to young people by involving members of the community and community organisations in—
    - (A) developing education and training opportunities for young people; and
    - (B) re-engaging young people in education and training; and
    - (C) developing ways to improve the social outcomes of young people; and
  - (iii) the State should work with parents to achieve the best outcomes for young people; and
  - (iv) the State should work in consultation with non-government entities to achieve the objects of chapter 10.

## **Part 5 Interpretation**

### **8 Definitions**

The dictionary in schedule 4 defines particular words used in this Act.

**9 Meaning of *compulsory school age***

- (1) A child is of *compulsory school age* if the child is at least 6 years and 6 months, and less than 16 years.
- (2) However, a child is no longer of compulsory school age if the child has completed year 10.

**10 Meaning of *parent***

- (1) A *parent*, of a child, is any of the following persons—
  - (a) the child’s mother;
  - (b) the child’s father;
  - (c) a person who exercises parental responsibility for the child.
- (2) However, a person standing in the place of a parent of a child on a temporary basis is not a parent of the child.
- (3) A parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child.
- (4) A parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child.
- (5) Despite subsections (1), (3) and (4), if—
  - (a) a person is granted guardianship of a child under the *Child Protection Act 1999*; or
  - (b) a person otherwise exercises parental responsibility for a child under a decision or order of a federal court or a court of a State;

then a reference in this Act to a parent of a child is a reference only to a person mentioned in paragraph (a) or (b).

**11 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 a State school’s principal.

- (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 under section 61 less the number of semesters of State education provided to the student.
- (4) Neither **basic allocation** nor **remaining allocation** includes an extra semester granted under chapter 4, part 3 or further semester granted under chapter 4, part 5.

## Chapter 2      State educational institutions

### Part 1              State education

#### 12      Provision of State education

- (1) For each student attending a State instructional institution, there must be provided an educational program approved by the Minister that—
- (a) has regard to—
    - (i) the age, ability, aptitude and development of the student; and
    - (ii) whether enrolment in the educational program is compulsory or non-compulsory; and
  - (b) is an integral element within the total range of educational services offered with the prior approval of the Minister; and
  - (c) takes account, and promotes continuity, of the student's learning experiences; and



**16 Naming, and changing of name, of a State educational institution**

The Minister may name, and change the name of, a State educational institution.

**Part 3 Amalgamation or closure of State schools****17 Definition for pt 3**

In this part—

*closure*, of a State school, does not include the following—

- (a) the temporary closure of the school;
- (b) the permanent closure of the school if the Minister is reasonably satisfied exceptional circumstances exist that justify the closure.

**18 Notice of proposed closure or amalgamation**

If the Minister proposes closing a State school or amalgamating 2 or more State schools, the Minister must publish a notice about the proposal in the gazette.

**19 Consultation**

- (1) Before closing a State school, there must be adequate consultation by the Minister with each of the following—
  - (a) the school community;
  - (b) if there is a school council for the school—the school council;
  - (c) if there is an association formed for the school—the association.
- (2) Before amalgamating 2 or more State schools, there must be adequate consultation by the Minister with each of the following—

- (a) the school communities;
- (b) if there is a school council established for any of the schools—the school council;
- (c) if there is an association formed for any of the schools—the association.

## **20 Time to elapse before closure or amalgamation**

If notice about a proposed closure of a State school or amalgamation of 2 or more State schools is published under section 18, the closure or amalgamation must not happen earlier than 6 months after the publication.

# **Part 4 Bases for education provided, and testing, at State instructional institutions**

## **21 Curriculum framework for State instructional institutions**

- (1) The Minister may decide on a curriculum framework that is to apply to a State instructional institution.

- (2) In this section—

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

## **22 Development and revision of 1–12 syllabuses and preparatory guidelines**

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

- (2) In this section—

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



*preparatory guidelines* means guidelines for the preparatory year.

## **23 Implementation of syllabus, course or preparatory guideline at State instructional institutions**

- (1) In providing education in school studies, a State instructional institution may only implement—
  - (a) an approved syllabus or accredited syllabus for the studies; or
  - (b) for an institution that is a registered training organisation—an accredited course.
- (2) The Minister may direct the principal of a State instructional institution to ensure the institution provides education in stated school studies.
- (3) The Minister may direct the principal of a State instructional institution that, in providing education in school studies, the institution must implement—
  - (a) a stated approved syllabus or accredited syllabus for the studies; or
  - (b) for an institution that is a registered training organisation—a stated accredited course.
- (4) The principal of a State instructional institution must ensure the institution, in providing education in the preparatory year, implements a stated approved preparatory guideline or accredited preparatory guideline.
- (5) In this section—

*accredited course* means a course accredited under the VETE Act.

*accredited preparatory guideline* means a preparatory guideline, accredited by the authority under the QSA Act, for the preparatory year.

*accredited syllabus*, for school studies, means a 1–12 syllabus accredited by the QSA under the QSA Act for the studies.

***approved preparatory guideline*** means a preparatory guideline, approved by the authority under the QSA Act, for the preparatory year.

***approved syllabus***, for school studies, means a 1–12 syllabus developed, purchased or revised, and approved, by the QSA under the QSA Act for the studies.

## 24 Direction by Minister about tests

(1) The Minister may direct the principal of a State instructional institution, providing education to students in the year of schooling to which an approved test or common national 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 QSA under the QSA Act.

***common national test*** means a common national test stated in the regulations made under the *Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004* (Cwlth), section 19(4).<sup>2</sup>

# Part 5 Provisions relating to mature age students

## Division 1 Preliminary

### 25 Definitions for pt 5

In this part—

***charge***, for an offence, in relation to a charge made outside Queensland, means any allegation of an offence made in a

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<sup>2</sup> *Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004* (Cwlth), section 19 (Specific condition—educational accountability)

way that is the same as, or substantially the same as, a charge under the law of the State.

***criminal history***, of a person, means—

- (a) every conviction of the person for an offence, in Queensland or elsewhere, at any time and whether before or after the commencement of this part; and
- (b) every charge made against the person for an offence, in Queensland or elsewhere, at any time and whether before or after the commencement of this part and whatever the outcome of the charge.

***mature age State school*** means a State school other than—

- (a) a school of distance education; or
- (b) a special school.

***mature age student***, in relation to a mature age State school, means an adult enrolled with the school.

***mature age student notice*** means a mature age student notice issued under section 29.

***negative notice*** see section 29(1)(b).

***positive notice*** see section 29(1)(a).

## **26 This part applies despite the Criminal Law (Rehabilitation of Offenders) Act 1986**

This part applies to a person despite anything in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

## **Division 2 Obligation relating to mature age student notices**

### **27 Obligation of mature age State school's principal**

- (1) A mature age State school's principal must not enrol a person as a mature age student with the school unless the person has a current positive notice for the enrolment.
- (2) Subsection (1) does not apply if—

- (a) the person has previously been enrolled with a non-State school or State educational institution (the *previous school or institution*) and on the day of enrolment was a child; and
  - (b) the period commencing on the last day of attendance of the person at the previous school or institution and ending on the day before the proposed first day of attendance of the person at the mature age State school is not more than 12 months.
- (3) Also, subsection (1) does not apply to a student visa holder.

## **Division 3                    Issue of mature age student notices**

### **28            Application for mature age student notice**

- (1) A person, other than a student visa holder, who wishes to be a mature age student of a particular mature age State school may apply to the chief executive for a mature age student notice stating whether the person is a suitable person to be a mature age student of the school.
- (2) The application must be—
  - (a) in the approved form; and
  - (b) signed by the person; and
  - (c) accompanied by the fee prescribed under a regulation.
- (3) The approved form must include provision for identifying information about the person.
- (4) The person may give the chief executive notice of the withdrawal of the application at any time before it is decided.
- (5) On receiving the application, the chief executive may ask the person, orally or in writing, for further information that the chief executive reasonably needs to establish the person's identity.
- (6) The person is taken to have withdrawn the application if—
  - (a) the chief executive gives the person a notice—

- (i) asking the person to provide, within a reasonable stated time, stated information that the chief executive reasonably needs to establish the person's identity; and
- (ii) warning the person that, if the person does not comply with the request, the person's application will be taken to have been withdrawn; and
- (b) the person does not comply with the request within the stated time; and
- (c) the chief executive can not establish with certainty the person's identity; and
- (d) the chief executive gives the person a notice stating that the person is taken to have withdrawn the application.

## **29 Decision on application**

- (1) The chief executive must decide the application, as soon as practicable after receiving it, by issuing—
  - (a) a mature age student notice declaring the person to be a suitable person to be a mature age student of the school (a *positive notice*); or
  - (b) a mature age student notice declaring the person to be an unsuitable person to be a mature age student of the school (a *negative notice*).
- (2) If the chief executive is not aware of any convictions or charges of the person for any offence, the chief executive must issue a positive notice.
- (3) Subsection (4) applies if the chief executive is aware of—
  - (a) a conviction of the person for an offence, other than a serious offence; or
  - (b) a charge of the person for an offence.
- (4) The chief executive must issue a positive notice unless the chief executive is satisfied it is an exceptional case in which it would not be in the best interests of children for the chief executive to issue a positive notice.

- (5) If the chief executive is aware of a conviction of the person for a serious offence, the chief executive must issue a negative notice unless the chief executive is satisfied it is an exceptional case in which it would not harm the best interests of children for the chief executive to issue a positive notice.
- (6) If the chief executive is aware of a conviction or charge of the person for an offence, the chief executive must decide the application having regard to the following matters relating to the commission, or alleged commission, of the offence by the person—
  - (a) whether it is a conviction or a charge;
  - (b) whether the offence is a serious offence;
  - (c) when the offence was committed or is alleged to have been committed;
  - (d) the nature of the offence and its relevance to the person being a mature age student of the school;
  - (e) anything else the chief executive reasonably considers to be relevant to the assessment of the person.
- (7) On deciding the application, the chief executive must—
  - (a) issue the mature age student notice to the person; and
  - (b) give a copy of the notice to the school's principal.
- (8) A negative notice issued to the person must be accompanied by a notice stating—
  - (a) the reasons for the chief executive's decision on the application; and
  - (b) that, within 40 days after receiving the notices, the person may apply to the chief executive to have the decision reviewed; and
  - (c) how the person may apply for the review.

### **30 Chief executive to invite submissions from person about criminal history**

- (1) If the chief executive proposes to decide the application by issuing a negative notice, the chief executive must give the person a notice—

- (a) stating information about the person's criminal history of which the chief executive is aware; and
  - (b) inviting the person to give the chief executive, within a stated time, an oral or written submission about the information or about the person's suitability to be a mature age student of the school.
- (2) The stated time must be reasonable and, in any case, at least 7 days after the chief executive gives the notice to the person.
- (3) Before deciding the application, the chief executive must consider any submission received from the person within the stated time.

### **31 Currency of positive notice**

A positive notice remains current for a period of 6 months after it is issued.

## **Division 4 Provisions about criminal history**

### **32 Criminal history check etc.**

- (1) This section applies to a person if—
- (a) the chief executive has received an application for a mature age student notice about the person and the application has not been withdrawn; or
  - (b) the person has a current positive notice for a particular mature age State school, but has not become a mature age student of the school; or
  - (c) the person—
    - (i) is a mature age student of a mature age State school; and
    - (ii) was 18 years or more on the day of enrolment with the school.
- (2) The chief executive may ask the commissioner of the police service to give the chief executive a written report about the criminal history of the person.

- (3) Also, the chief executive may ask the commissioner of the police service to give the chief executive a brief description of the circumstances of a conviction or charge, for an offence, mentioned in the person's criminal history.
- (4) Subject to subsection (5), the commissioner of the police service must comply with a request under subsection (2) or (3).
- (5) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the possession of the commissioner or to which the commissioner has access.

### **33 Notice of change in criminal history**

- (1) If the commissioner of the police service reasonably suspects that a person who is charged with an offence is a person mentioned in section 32(1)(a) to (c), the commissioner may notify the chief executive about the change in the person's criminal history.
- (2) The notice must state the following—
  - (a) the person's name and address;
  - (b) the person's date of birth;
  - (c) the offence the person was charged with;
  - (d) particulars of the offence;
  - (e) the date of the charge.
- (3) The chief executive may confirm the suspicions of the commissioner of the police service under subsection (1).
- (4) If the person is a person to whom section 34(2) applies, the chief executive, on receiving notice under subsection (1), may write to the person to inform the person of the person's obligations under section 34(2).
- (5) For this section, the chief executive may give the commissioner of the police service—
  - (a) information about whether the person is a person mentioned in section 32(1)(a) to (c); and



- (b) if the person is a person mentioned in section 32(1)(a) to (c), the name of the person and other identifying information about the person, including the person's date and place of birth and any alias.
- (6) Information given to the commissioner of the police service under subsection (5) must be used only for this part.

### **34 Disclosure of change in criminal history**

- (1) Subsection (2) applies to a person who—
  - (a) is a mature age student of a mature age State school; and
  - (b) was 18 years or more on the day of enrolment with the school.
- (2) If there is a change in the person's criminal history, the person must immediately disclose to the chief executive the details of the change.  
Maximum penalty—20 penalty units.
- (3) For a person who does not have a criminal history, there is taken to be a change in the person's criminal history if the person acquires a criminal history.

### **35 Requirements for disclosure**

- (1) To comply with section 34(2), a person must give the chief executive a disclosure in the approved form.
- (2) The information disclosed by a person about a conviction or charge for an offence in the person's criminal history must include—
  - (a) the existence of the conviction or charge; and
  - (b) when the offence was committed or alleged to have been committed; and
  - (c) enough details to identify the offence or alleged offence; and
  - (d) for a conviction, whether or not a conviction was recorded and the sentence imposed on the person.

**36 Use of criminal history information**

The chief executive must not use information obtained under this part about a person's criminal history other than for this part or chapter 12, part 4, division 3.<sup>3</sup>

**37 Confidentiality of information about criminal history**

- (1) This section applies to a person who—
  - (a) is, or has been, an officer of the department; and
  - (b) in that capacity acquired information, or gained access to a document, under this part about someone else's criminal history.
- (2) The person must not disclose the information, or give access to the document, to anyone else.

Maximum penalty—20 penalty units.

- (3) Subsection (2) does not apply to the disclosure of information, or giving of access to a document, about a person—
  - (a) to the chief executive for the purpose of the chief executive deciding whether to—
    - (i) issue a mature age student notice to the person; or
    - (ii) cancel a positive notice issued to the person; or
    - (iii) exclude the person from a State school under chapter 12, part 4, division 3; or
  - (b) with the person's consent; or
  - (c) if the disclosure or giving of access is permitted or required under an Act or other law.

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<sup>3</sup> Chapter 12 (Good order and management of State educational institutions and non-State schools), part 4 (Suspension, exclusion and cancellation of enrolment of, and behaviour improvement conditions for, State school students), division 3 (Exclusion of students by chief executive)

## **Division 5                      Cancellation and replacement of positive notices**

### **38        Wrong, incomplete or new information**

- (1) This section applies to a person who has a current positive notice for a mature age State school, but has not become a mature age student of the school.
- (2) The chief executive may cancel the positive notice (the *first notice*) and substitute a negative notice (the *new notice*) if the chief executive is satisfied—
  - (a) the decision on the application for the first notice was based on wrong or incomplete information; and
  - (b) based on the correct or complete information, the chief executive should issue the new notice.
- (3) Also, the chief executive may cancel a positive notice about the person and substitute a negative notice (also the *new notice*), having regard to information about the person received by the chief executive under section 33(1).
- (4) However, if the chief executive proposes to substitute a negative notice, the chief executive must first comply with section 30, as if—
  - (a) the reference in section 30(1) to deciding the application by issuing a negative notice were a reference to substituting a negative notice for a positive notice; and
  - (b) the reference in section 30(3) to deciding the application were a reference to substituting a negative notice for a positive notice.
- (5) The chief executive must—
  - (a) issue the new notice to the person; and
  - (b) give a copy of the new notice to the school's principal.
- (6) A new notice issued to the person under subsection (5) must be accompanied by a notice stating—
  - (a) the reasons for the chief executive's decision to issue the new notice; and

- (b) that, within 40 days after receiving the notices, the person may apply to the chief executive to have the decision reviewed; and
- (c) how the person may apply for the review.

## **Division 6                      Review of decisions**

### **39            Definition for div 6**

In this division—

*original decision* see section 40.

### **40            Who may apply for review**

A person may apply to the chief executive for a review of a decision (the *original decision*) of the chief executive to issue the person with a negative notice for a mature age State school.

### **41            Applying for review**

- (1) The application must be made within 40 days after the person is given notice of the original decision.
- (2) The chief executive may, at any time, extend the time for applying for the review.
- (3) The application for review must be in writing and state fully the grounds of the application.

### **42            Review decision**

- (1) The chief executive must conduct the review on—
  - (a) the material that led to the original decision; and
  - (b) the reasons for the original decision; and
  - (c) any other relevant material the chief executive allows (the *allowed material*).

- (2) For the review, the chief executive must give the applicant a reasonable opportunity to make written representations to the chief executive.
- (3) Without limiting subsection (2), if the allowed material affects the chief executive's decision, the chief executive must give the applicant a reasonable opportunity to make written representations to the chief executive on the material.
- (4) After reviewing the original decision, the chief executive must make a further decision (the **review decision**) to—
  - (a) confirm the original decision; or
  - (b) cancel the negative notice and substitute a positive notice.
- (5) The chief executive must, as soon as practicable, give the applicant notice (the **review notice**) of the review decision.
- (6) If the review decision is to confirm the original decision, the review notice must also state the reasons for the review decision.
- (7) If the review decision is to cancel the negative notice and substitute a positive notice, the chief executive must—
  - (a) issue the positive notice to the person; and
  - (b) give a copy of the positive notice to the school's principal.

## **Division 7                      General provisions**

### **43           False or misleading information or documents**

- (1) A person must not under this part give information to the chief executive the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

- (2) A person must not under this part give the chief executive a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

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

#### **44 Time limit on new application for mature age student notice**

- (1) This section applies if—
- (a) a person makes an application for a mature age student notice (the *first application*) in relation to a particular mature age State school; and
  - (b) the chief executive decides the application by issuing the person with a negative notice.
- (2) The person may not make another application for a mature age student notice in relation to the school within 1 year after the person is notified of the decision on the first application.

## **Part 6 Miscellaneous provisions**

#### **45 Inspection of State educational institution's premises**

The Minister may arrange for a State educational institution's premises to be inspected at a time and in the way the Minister believes appropriate.

#### **46 Investigation of complaint**

The chief executive must, as soon as practicable, investigate any complaint about the administration, management or operation of a State educational institution that, in the chief executive's opinion, is not a frivolous or vexatious complaint.

**47 Use of State educational institution's premises**

- (1) The Minister may permit a person to use a State educational institution's premises located on reserve land for any purpose, including a purpose not connected with education.
- (2) Permission may be given under subsection (1) on reasonable conditions the Minister considers appropriate.
- (3) In this section—

*reserve land* means land dedicated as a reserve under the *Land Act 1994*, section 31 for educational purposes.

## Chapter 3      **Cost of providing State education**

**48 Definitions for ch 3**

In this chapter—

*chief executive (transport)* means the chief executive of the department in which the *Transport Operations (Passenger Transport) Act 1994* is administered.

*nearest applicable school*, for a person, means the nearest State school with the required year level for the person.

*permanent resident* means the holder of a permanent visa as defined by the *Migration Act 1958* (Cwlth), section 30(1).

**49 Meaning of *remote area***

A person lives in a *remote area* if—

- (a) the person's principal place of residence—
  - (i) is at least 16km from the nearest applicable school; and
  - (ii) is at least 4.5km from a school transport service approved by the chief executive (transport) or a public transport service to the nearest applicable school; or

- (b) the person's principal place of residence—
  - (i) is at least 16km from the nearest applicable school; and
  - (ii) is less than 4.5km from a school transport service approved by the chief executive (transport) or a public transport service to the nearest applicable school; and
  - (iii) is—
    - (A) at least 56km from the nearest applicable school using the route travelled by the transport service; or
    - (B) at least 3 hours travelling time a day from the nearest applicable school using the transport service.

## **50 State education to be free**

- (1) Subsection (2) applies to a person enrolled at a State school who is—
  - (a) an Australian citizen or permanent resident; or
  - (b) a child of an Australian citizen or permanent resident.
- (2) The cost of providing instruction, administration and facilities for the education of the person at the school must be met by the State.
- (3) This section applies subject to sections 51, 52 and 55.
- (4) In this section—

*person enrolled at a State school* does not include a person who is also enrolled at a non-State school unless the person's enrolment at the State school preceded the person's enrolment at the non-State school.

## **51 Power to charge particular persons or for particular educational services**

- (1) Subsection (3) applies to a person enrolled at a State school who is not—



- (a) an Australian citizen or permanent resident; or
  - (b) a child of an Australian citizen or permanent resident.
- (2) Subsection (3) also applies to a person enrolled at both a State school and non-State school if the person's enrolment at the non-State school preceded the person's enrolment at the State school.
- (3) The chief executive may charge the person a fee for the education of the person at the State school.
- (4) Also, the chief executive may charge a person mentioned in section 50(1)—
- (a) a fee for providing an educational service to the person not met by the State under section 50(2); or
  - (b) a fee for the provision of an educational service by an entity to the person if the State school at which the person is enrolled has been charged by the entity for the provision of the educational service.
- (5) In addition, the chief executive may charge a person not enrolled at a State school a fee for the education of the person at the school.
- (6) The chief executive's power to charge a person a fee under this section includes a power to—
- (a) exempt any person or matter from payment of the fee; or
  - (b) waive payment of the fee for any person or matter; or
  - (c) refund a fee paid under this section.

## **52 Fee for distance education provided by a State school**

- (1) This section applies to—
- (a) a person enrolled in a program of distance education at a State school; or
  - (b) a person, other than a State school student, who is enrolled to undertake a component of a program of distance education at a State school but is not enrolled in the program at the school.

(2) The fee prescribed under a regulation must be paid for the provision of distance education to the person.

(3) In this section—

*State school student* means a person enrolled at a State school.

### **53 When fee for distance education is not payable**

(1) Despite section 52(2), the fee is not payable if the person is a person mentioned in section 52(1)(a) and—

(a) the person lives in a remote area; or

(b) the person—

(i) can not attend a State school, other than a school of distance education, for more than 80 consecutive school days because of the person's state of health; and

(ii) gives the chief executive a medical certificate stating that fact; or

(c) the person has an itinerant lifestyle; or

(d) the person—

(i) is excluded from 1 or more, but not all, State schools, other than schools of distance education, under section 293 or 302;<sup>4</sup> and

(ii) would live in a remote area if the school, or schools, from which the person is excluded were taken not to be a nearest applicable school for the definition *remote area*; or

(e) the person is excluded from all State schools, other than schools of distance education, under section 302; or

(f) the person can not attend a State school, other than a school of distance education, because the person is caring for the person's child or a child for whom the person has or exercises parental responsibility; or

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<sup>4</sup> Section 293 (Exclusion of student by principal's supervisor) or 302 (Exclusion of student by chief executive)

- (g) the person—
    - (i) can not attend a State school, other than a school of distance education, because the person is caring for someone, other than a child mentioned in paragraph (f), on a regular basis; and
    - (ii) gives the chief executive a medical certificate stating that fact; or
  - (h) the person can not be a mature age student of a mature age State school because the person has been issued with a negative notice under section 29; or
  - (i) the person is in the custody of the chief executive (corrective services) at a corrective services facility under the *Corrective Services Act 2000*.
- (2) For subsection (1)(c), a person has an itinerant lifestyle if—
- (a) because of the nature of the occupation in which the person or a parent of the person is engaged—
    - (i) the person’s principal place of residence changes at least twice in the relevant school year or at least 5 times in the period consisting of the relevant school year and the school year immediately before or after the relevant school year; or
    - (ii) the person spends at least 60 school days of the relevant school year (consisting of periods of 5 consecutive school days or more) away from the person’s principal place of residence; or
    - (iii) the person’s principal place of residence is a caravan and the location of the caravan changes at least twice in the relevant school year or at least 5 times in the period consisting of the relevant school year and the school year immediately before or after the relevant school year; or
    - (iv) the place where the person lives changes at least twice in the relevant school year and the person does not have a principal place of residence; and

*Examples of an occupation for paragraph (a)—*

carnival worker, contract harvester or shearer

(b) the person spends at least 120 school days of the relevant school year in the State.

(3) In this section—

***caravan*** means a caravan under the *Residential Tenancies Act 1994*.

***medical certificate*** means a certificate signed by a registrant under the *Psychologists Registration Act 2001* or a medical practitioner.

***relevant school year*** means the school year in relation to which the person is enrolled in a program of distance education at a State school.

## 54 Waiver of fee for distance education

(1) The chief executive may waive, entirely or partly, payment of the fee mentioned in section 52(2) for a person if—

(a) the chief executive is satisfied—

- (i) the person is or has been enrolled in, or undertaking a component of, a program of distance education and would suffer a significant educational disadvantage if the person were not able to continue in the program; and
- (ii) payment of the fee would cause financial hardship to the person liable to pay it; or

*Example for paragraph (a)—*

A parent of a child enrolled in a program of distance education for 1 year may be unable to pay the fee for the following year because of temporary financial hardship.

(b) for a person enrolled in a program, or enrolled to undertake a component of a program, of distance education—the chief executive is satisfied the waiver is appropriate and reasonable because exceptional circumstances exist in relation to the person.

(2) In making a decision under subsection (1)(b) about waiving payment of the fee for a person, the chief executive may have regard to any relevant matter of which the chief executive is aware, including, for example—

- (a) whether the person would suffer a significant educational disadvantage if the person were not able to enrol in a program, or enrol to undertake a component of a program, of distance education; or
- (b) whether a program, or a component of a program, of distance education is the most appropriate educational program for the person.

## **55 Charging for specialised educational program**

- (1) This section applies to a State school that is approved by the chief executive to offer a specialised educational program prescribed under a regulation.
- (2) The fee, for the program, prescribed under a regulation must be paid for the undertaking of the program.
- (3) For subsection (2)—
  - (a) if a child is undertaking the program—a parent of the child must pay the fee; or
  - (b) if an adult is undertaking the program—that person must pay the fee.
- (4) However, the chief executive may waive, entirely or partly, payment of the fee if the chief executive is satisfied—
  - (a) payment of the fee would cause financial hardship to the person liable to pay it; and
  - (b) the person wishing to undertake the program would suffer a significant educational disadvantage if the person can not undertake the program.
- (5) The chief executive must ensure a list of State schools approved under subsection (1) is available for public inspection, without charge—
  - (a) during normal business hours at the department's head office; and
  - (b) on the department's web site on the internet.

### *Editor's note—*

The department's web site address on the internet is <[www.education.qld.gov.au](http://www.education.qld.gov.au)>.

(6) In this section—

*specialised educational program* means an educational program not usually offered by a State school.

## **56 Voluntary financial contribution**

- (1) Despite section 50, a State school's principal may ask the parents of a student of the school to make a voluntary financial contribution towards the cost of providing instruction, administration and facilities for the education of the student at the school.
- (2) The student must still be provided the education even if the parents do not make the financial contribution.
- (3) If the student is an adult, subsections (1) and (2) apply as if the reference in the subsections to the student's parents were a reference to the student.

# **Chapter 4 Allocation of State education**

## **Part 1 Preliminary**

### **57 Definition for ch 4**

In this chapter—

*student* includes a person who is not enrolled at a State school.

### **58 Application of chapter to student under 16 years**

A student who is under 16 years at the time of starting a semester in a school year at a State school, but who does not have any remaining allocation, may attend the State school for

all of the semester without making an application under part 3 or 5.<sup>5</sup>

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

- (1) The purpose of this chapter is to ensure each student who enrolls at a State school has an allocation of State education.
- (2) If a student begins schooling in year 1 at a State school before the student turns 7 years and 6 months, the student has the basic allocation.
- (3) For a student not mentioned in subsection (2), a State school's principal must calculate the remaining allocation for the student under section 61.
- (4) Under certain circumstances, an allocation may be increased—
  - (a) by a State school's principal under part 3; or
  - (b) by the chief executive under part 5.

## **Part 2 Basic allocation and remaining allocation**

### **60 Basic allocation**

If a student begins schooling in year 1 at a State school before the student turns 7 years and 6 months, the student has the basic allocation from the start of the semester in the school year in which the student begins schooling.

### **61 Remaining allocation**

- (1) This section applies to the following students—
  - (a) a student who received—

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

- (i) schooling at a non-State school; or
- (ii) home education under chapter 9, part 5;
- (b) a student who received schooling outside Queensland;
- (c) a student who, at any time before the end of semester 2 in 1997, was enrolled at a State school, other than a student enrolled in a year level mentioned in column 1 of subsection (3) at the end of semester 2 in 1997;
- (d) a student beginning schooling who is—
  - (i) beginning schooling in year 2 or later; or
  - (ii) at least 7 years and 6 months.
- (2) If an application is made under section 155 to enrol the student at a State school, the State school's principal must decide the student's remaining allocation.
- (3) Subject to subsection (4), if a student, other than a student mentioned in subsection (1), was enrolled at a State school in a year level mentioned in column 1 at the end of semester 2 in 1997, the State school's principal is taken to have decided that the student has a remaining allocation mentioned opposite in column 2.

**Column 1****Column 2**

|    |    |
|----|----|
| 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 a State school's principal decides that the application of subsection (3) to a student mentioned in that



subsection is inappropriate, the principal must decide the student's remaining allocation.

- (5) The principal's decision that it is inappropriate for subsection (3) to apply to the student is, for section 62(2), a decision about the student's remaining allocation.
- (6) If the student has been the subject of an exemption under chapter 9, part 3<sup>6</sup> and did not undertake an educational program for all or part of the period of the exemption (the *excused period*), the excused period must not be included in calculating the student's remaining allocation.

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

- (1) This section applies to a decision, under section 61, by a State school's principal.
- (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) The principal must make the decision within a reasonable time after the application was made to enrol the student at the school.
- (4) After making the decision, the principal must—
  - (a) immediately advise the student of the decision; and

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6 Chapter 9 (Compulsory schooling), part 3 (Exemption from compliance with compulsory schooling requirement)

- (b) within 7 days after advising the student of the decision, give 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 within 14 days after notice of the decision is given to the student or the later time allowed by the supervisor; and
  - (d) the title, name and address of the supervisor; and
  - (e) the way in which the submission may be made.

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

- (1) This section applies to a student—
- (a) who is enrolled in semester 2 in a year at a State school; and
  - (b) whose remaining allocation will be not more than 4 semesters at the end of the year.
- (2) By the end of the year, the principal of the State school must give notice to the student about the student's remaining allocation after the end of semester 2 of the year.
- (3) The notice may be included with another report or document given to the student.

### **64 Information to be given to repeating student**

- (1) This section applies to a student who has been approved by a State school's principal to repeat, at the school, a year of schooling for which the student has already been enrolled at the school.
- (2) The principal must, as soon as practicable after the approval, give the student written information about the allocation of State education under this chapter.

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

### **65      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 a State school's principal for the granting, in a school year, of not more than 2 extra semesters of State education at the State school.
- (3) The application must be given to the principal—
  - (a) more than 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—before the later time.

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

- (1) The principal must consider the application and decide 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 school for the extra semester or semesters; and
  - (c) the likely impact on the resources of the State school of the student attending the State school for the extra semester or semesters.
- (2) However, the principal must make the decision within a reasonable time after the making of the application, allowing for 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 making the decision, the principal must—

- (a) immediately advise the student of the decision; and
  - (b) within 7 days after advising the student of the decision, give notice to the student of the decision and the 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 notice must also state—
- (a) 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 within 14 days after notice of the decision is given to the student or the later time allowed by the supervisor; and
  - (b) the title, name and address of the supervisor; and
  - (c) the way in which the submission may be made.

**67 Limitation on extra semesters granted by principals**

No more than 2 extra semesters may be granted to a student under this part.

## **Part 4 Submissions against principal's decision**

**68 Submissions against principal's decision**

- (1) This section applies to a decision of a State school's principal about—
  - (a) the allocation of semesters to a student under section 61(2) or (4); or
  - (b) an application for an extra semester or semesters under part 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 after notice of the decision is given to the student; or
  - (b) if the principal's supervisor allows a later time for giving the submission—by the later time.

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

- (1) If a submission is made to the principal's supervisor under section 68, the supervisor must immediately 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) immediately advise the student about the supervisor's decision; and
  - (b) within 7 days after advising the student of the supervisor's decision, give notice to the student about—
    - (i) the supervisor's decision; and
    - (ii) the reasons for the supervisor's decision; and
    - (iii) the student's right to appeal, under section 402, against the supervisor's decision, including the time within which the student may appeal.
- (3) Also, as soon as practicable after making a decision under this section, the supervisor must give notice of the supervisor's decision to the principal.

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

### **70        Definition for pt 5**

In this part—

*stated State school* see section 71(2).

### **71        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 2 extra semesters under part 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 State school stated in the application (the *stated State school*).
- (3) The application must be made to the chief executive—
  - (a) more than 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 making the application—before the later time.

### **72        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 stated State school for the further semester or semesters; and

- (c) the likely impact on the resources of the stated State school of the student attending the stated State school for the further semester or semesters.
- (2) However, the chief executive must make the decision within a reasonable time after the making of the application, allowing for 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 decides the application, the chief executive must—
  - (a) immediately advise the student of the decision; and
  - (b) within 7 days after advising the student of the decision—
    - (i) if the student has not previously been granted 2 further semesters under this part—give the student an information notice about the decision; or
    - (ii) if the student has previously been granted 2 further semesters under this part—give the student a notice about—
      - (A) the decision; and
      - (B) the reasons for the decision; and
      - (C) the student’s right to appeal, under section 402, against the decision, including the time within which the student may appeal.

### **73 Chief executive to give notice to principal if further semesters granted**

- (1) If the chief executive decides to grant the application, the chief executive must give notice of the decision to the stated State school’s principal.
- (2) The notice must state—
  - (a) the student’s name; and
  - (b) the student’s educational level; and
  - (c) the period of the extension; and

- (d) any other information the chief executive is reasonably satisfied the principal should be aware of in relation to the decision.

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

No more than 4 further semesters may be granted to a student under this part.

**Part 6 Copy of notice to be given to parent**

**75 Copy of notice under this chapter to be given to parent**

- (1) If a person is required, under this chapter, to give a notice to a student and the student is a child, the person must as soon as practicable give a copy of the notice to a parent of the child.
- (2) For giving the copy to a parent, the person may rely on the relevant State school's records about the child's parents and their current residential address.
- (3) Subsection (1) does not apply if the person is satisfied it would be inappropriate in the circumstances to give the copy to the parent.

*Example—*

It may be inappropriate to give the parent a copy of the notice if the student is living independently of his or her parents.

- (4) In this section—

***parent***, of a child, includes a person standing in the place of a parent of the child on a temporary basis.



## **Chapter 5      Religious instruction**

### **76      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 students enrolled in the preparatory year at a State school.

## Chapter 6 School councils

### Part 1 Preliminary

#### 77 Definitions for ch 6

In this chapter—

*alternative association member* see section 88(1).

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

*chairperson*, of a school council, means a person elected as chairperson of the council under section 89.

*coopted student member*, of a school council established for a State school that does not offer secondary education, means a year 7 student of the school who is coopted as a member of the council under the council's constitution.

*elected member*, of a school council, means a person who is an elected member of the council under section 86.

*elected parent member*, of a school council, means a parent of a child attending the school for which the council is established who is 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.

*elected staff member*, of a school council, means a member of the staff of the school for which the council is established who is elected by a secret ballot, held under the council's constitution, of all the persons who are—

- (a) employed by the department and assigned to the school; or
- (b) otherwise employed full-time or part-time at the school.



**80 Name**

The school council established for a State 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’.

**81 Functions**

- (1) A school council for a State school has the following functions—
  - (a) monitoring the school’s strategic direction;
  - (b) approving—
    - (i) plans and policies of the school of a strategic nature; or
    - (ii) other documents affecting strategic matters, including the annual estimate of revenue and expenditure for the school;
  - (c) monitoring the implementation of the plans, policies and other documents mentioned in paragraph (b);
  - (d) advising the school’s principal about strategic matters.
- (2) The council must perform 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 management by the school’s principal 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 at 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.

**82 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.

**Part 4 Membership****83 Membership of a school council**

- (1) A school council consists of official members, elected members and appointed members.
- (2) Also, if the State school for which the council is established does not offer secondary education, a school council may also include a coopted student member.

**84 Number**

- (1) The number of members of a school council must be at least 6 and not more than 15.
- (2) A school council must include at least—
  - (a) 1 elected parent member; and
  - (b) 1 elected staff member.
- (3) The number of elected parent members and elected staff members of a school council must be equal.
- (4) A school council must include not more than 2 elected student members and 2 appointed members.
- (5) If the State school for which a school council is established provides secondary education for year 10, 11 or 12, the council must include at least 1 elected student member.

**85 Official members**

- (1) The official members of a school council for a State school are—
  - (a) the school's principal; and
  - (b) if there is an association formed for the school—the association's president.
- (2) An official member of a school council is not eligible to be an elected member, or appointed member, of the council.

**86 Elected members**

- (1) The elected members of a school council are—
  - (a) the elected parent members; and
  - (b) the elected staff members; and
  - (c) if the school for which the council is established offers secondary education for year 10, 11 or 12—the elected student members.
- (2) A poll for the election of an elected student member of a school council may take place at the same time as, or be combined with, other elections at the State school for which the council is established involving students, including, for example, the election of the school's captain and vice-captain.
- (3) Subsection (4) applies if, at the time of closure of nominations for the elected members of a school council, the number of nominations is less than the number of elected members required to be elected.
- (4) The person who, under the council's constitution, is responsible for conducting the election for the elected members must declare the persons who are properly nominated under the constitution to have been elected.

**87 Coopted student member**

A coopted student member of a school council—

- (a) does not have the power to vote on a matter before the council despite section 101(1), (2) and (3); and

- (b) may not be elected as the council's chairperson under section 89 or be chosen to preside at a council meeting under section 100(2).

## **88 Alternative association member**

- (1) The president of an association formed for a State school may, under the association's constitution, appoint another association member (the *alternative association member*) to attend meetings of a school council for the school in the place of the president when the president can not attend the meetings.
- (2) When attending a meeting of the council under subsection (1), the alternative association member has the same rights and duties as the president.
- (3) An elected member, or appointed member, of the council is ineligible for appointment by the president as the alternative association member.

## **89 Chairperson**

- (1) A school council for a State school must elect one of the council's members as chairperson of the council.
- (2) The school's principal may not be elected as chairperson of the council.
- (3) A school council's 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.
- (4) Subsection (5) applies if—
  - (a) an association has been formed for the school for which a school council is established; and
  - (b) the president of the association is the chairperson of the council; and
  - (c) an alternative association member is attending a meeting of the council in place of the president.

- (5) Despite section 88(2), the alternative association member may not preside at the meeting, unless the alternative association member is chosen to preside under section 100(2).

## **90 Term of office for elected member or appointed member**

- (1) Each elected member, or appointed member, of a school council holds office for the term, not longer than 2 years, stated in the council's constitution.
- (2) However, subject to section 84, the council's constitution may provide for up to the following number of the council's first elected members to hold office for a term of not longer than 3 years—
- if one-half of the number of the first elected members is an even number—one-half of the number of the first elected members;
  - if one-half of the number of the first elected members is an odd number—the whole number next higher than one-half of the number of the first elected members.

## **91 Casual vacancy in office of elected member or appointed member**

- (1) If a vacancy occurs in the office of an elected member, or appointed member, of a school council (the *vacating member*) during the currency of the member's term of office, another person (the *new member*) must be elected or appointed under this part to fill the vacancy.
- (2) The new member holds office for the remainder of the vacating member's term of office or until the new member sooner vacates the office.
- (3) If a vacancy occurs in the office of an elected member, the new member must be of the same type of elected member, under section 86, as the vacating member.



**92 Vacation of office**

- (1) The office of an elected member, or appointed member, of a school council for a State school becomes vacant if the member—
  - (a) dies; or
  - (b) resigns the member's office by signed notice of resignation—
    - (i) for the council's chairperson—given to the school principal's supervisor; or
    - (ii) for another council member—given to the council's chairperson; or
  - (c) is absent from 3 consecutive meetings of the council, of which the member has been given notice under the 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.
- (2) A notice of resignation mentioned in subsection (1)(b) takes effect when the notice is given under that paragraph or, if a later time is stated in the notice, the later time.
- (3) If the office of an elected member, or appointed member, of a school council is vacant and, because of the vacancy, the membership does not comply with section 84, 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.
- (4) In this section—

**meeting**, of the council, means—

  - (a) if the relevant member does not attend—a meeting of the council with a quorum for the council present; or
  - (b) if the relevant member attends—a meeting of the council with or without a quorum for the council present.

**93 Disqualification from membership**

- (1) A person can not become, or continue as, 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 notice to the council’s chairperson and the person that the person is restored as a member, and may be later re-elected or reappointed, despite the conviction; or
  - (b) otherwise—give written approval for the person to be elected or appointed as a council member despite the conviction.
- (3) On the day the council’s chairperson receives a notice under subsection (2)(a)—
  - (a) the person is restored as a council 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 council member under subsection (3), the person’s term of office as a council member ends when it would have ended if the person had not been convicted of the offence.

**Part 5 Constitution****94 Constitution for school council**

- (1) A school council must have a constitution.
- (2) The council’s constitution must provide for the following—
  - (a) membership of the council, including—

- (i) eligibility for election as, or to vote for, an elected member of the council; and
  - (ii) eligibility for appointment as an appointed member of the council; and
  - (iii) procedures for election or appointment; and
  - (iv) when the term of office of an elected member, or appointed member, of the council 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 association’s president must give notice to the council’s chairperson about the appointment of an alternative association member;
- (b) election of, and other matters relating to, the council’s chairperson;
  - (c) conduct of council business;
  - (d) the way the council performs 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 part 4; 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 of the council.

## **95 Amendment of school council’s constitution**

- (1) A school council for a State school may prepare and adopt an amendment of its constitution.
- (2) In preparing a proposed amendment, the council must have regard to the model constitutions.
- (3) An amendment has no effect unless it is approved by the chief executive.

- (4) The chief executive must not approve an amendment unless the chief executive is satisfied—
- (a) notice of the proposed amendment was given, at least 30 days before the council meeting that considered the amendment, to the following—
    - (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 the proposed amendment in the school’s newsletter); and
  - (b) the amendment was adopted by at least the number of members constituting a quorum for the council; and
  - (c) the amended constitution is consistent with this Act and otherwise lawful.
- (5) In deciding whether to approve an amendment, the chief executive must also have regard to the following matters about the amended constitution—
- (a) whether it provides for a membership that—
    - (i) allows adequate representation by parents, staff, students and other members of the school community; and
    - (ii) takes into account the demographics of the school community;
  - (b) whether it provides for the council to perform its functions in an effective and fair way;
  - (c) whether its provisions are otherwise adequate, clear and appropriate.

## **96 Model constitutions for school councils**

The chief executive may prepare model constitutions for school councils (the *model constitutions*).

## **Part 6 Council business**

### **97 Conduct of business**

- (1) Subject to its constitution and this part, a school council may conduct its business, including its meetings, in the way it considers appropriate.
- (2) However, a school 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 for the council is present.

### **98 Time and place of meetings**

- (1) School council meetings must be held at the times and places the council decides.
- (2) However, a school council's 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 its members required to form a quorum for the council.
- (3) A school council must meet at least twice in each semester.

### **99 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.

### **100 Presiding at meetings**

- (1) The school council's chairperson must preside at all council meetings at which the chairperson is present.
- (2) If the chairperson is absent from a council meeting, another council member chosen by the council members present must preside.

**101 Conduct of meetings**

- (1) A question at a school council meeting, other than a question about an amendment of the council's constitution, must be decided by a majority of the votes of the council members present.
- (2) Each member present at a council meeting has a vote on each question to be decided and, if the votes are equal, the member presiding has a casting vote.
- (3) A member present at a council meeting who abstains from voting is taken to have voted for the negative.
- (4) A school council may hold meetings, or allow its members to take part in its 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.
- (5) A school council member who takes part in a council meeting under subsection (4) is taken to be present at the meeting.

**102 Attendance by proxy**

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

**103 Disclosure of interest**

- (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 interested member's duties when considering the issue.
- (2) As soon as practicable after the relevant facts come to the interested member's knowledge, the interested 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—
  - (a) 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); and
  - (b) there would be a quorum for the council if the member were present;

the remaining members present are a quorum for the council for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.
- (7) A disclosure under subsection (2) must be recorded in the council's minutes.

## Part 7 Application of other laws

### 104 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 member, 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) This section does not apply to an elected student member of the council.

### 105 Public Records Act 2002

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

### 106 Freedom of Information Act 1992

- (1) For the application of the *Freedom of Information Act 1992*, a school council is taken to form part of the department.
- (2) To remove doubt, it is declared that the *Freedom of Information Act 1992*, part 2,<sup>8</sup> does not apply to a school council.

### 107 Public Sector Ethics Act 1994

- (1) This section is about the application of the *Public Sector Ethics Act 1994* (the *Act*) to a school council.
- (2) For the application of the *Act*—
  - (a) a school council is a public sector entity; and

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<sup>8</sup> *Freedom of Information Act 1992*, part 2 (Publication of certain documents and information)



- (b) a member of the 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 a code of conduct is prepared that, after approval under section 17 of the Act, applies to a 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.
  - (5) For section 23 of the Act, a reference to the entity's annual report is a reference to the department's annual report.

## **Part 8 Starting up**

### **108 Purpose and application**

- (1) This part is about the establishment and initial operation of a school council.
- (2) If there is an inconsistency between this part and another provision of this chapter, this part prevails to the extent of the inconsistency.

### **109 Initial constitution**

- (1) A State school's principal must prepare a draft constitution for a proposed school council for the school.
- (2) Section 95(1) to (3) and (5)<sup>9</sup> apply to the preparation as if a reference to a school council amending its constitution were a reference to the school's principal preparing the proposed council's draft constitution.
- (3) In preparing the draft constitution, the principal—
  - (a) must consult with—

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<sup>9</sup> Section 95 (Amendment of school council's constitution)

- (i) the parents of children attending the school; and
    - (ii) the school's 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 parents of children attending the school (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 the school unless the association meeting or parent meeting, and the staff meeting, are called and the draft constitution is 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 the school, even though the draft constitution is not approved under subsection (6), if the chief executive—
- (a) is satisfied of each of the following—
    - (i) if there is an association formed for the school and the association did not approve the draft constitution under subsection (6)—there were at least 3 association meetings held to discuss the draft constitution during a 3 month period;
    - (ii) if there is no association formed for the school and the parents of children attending the school did not

- approve the draft constitution under subsection (6)—there were at least 3 parent meetings held to discuss the draft constitution during a 3 month period;
- (iii) if the school’s staff did not approve the draft constitution under subsection (6)—there were at least 3 staff meetings held to discuss the draft constitution during a 3 month period; and
- (b) has had 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.

### **110 Initial membership**

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

### **111 First elected members and appointed members**

- (1) As soon as practicable after a school council is established, its 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 its official members and elected members, may appoint the council’s appointed members.

## **Part 9 Dissolution**

### **112 Dissolution of a school council**

- (1) A school council is dissolved—

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

### **113 Records**

- (1) As soon as practicable after the dissolution of a school council for a State school, the school's principal must ensure the council's records are given to the chief executive.
- (2) In this section—  
*records*, of the council, includes all documents held by the council that it has created or acquired in the course of performing its functions.

## **Part 10 Miscellaneous**

### **114 School council not to establish committee or subcommittee**

A school council must not establish a committee or subcommittee.

### **115 Expense of attending meetings**

The chief executive may—

- (a) decide the allowance payable to compensate a member of a school council in attending a meeting of the council, the amount of which is dependent on the class of membership of the council; or
- (b) reimburse a member of a school council the whole or part of the reasonable expenses incurred by the member in attending a meeting of the council.

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

- (1) The Minister may give a school council a written direction about a matter relevant to the performance of its functions under section 81 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 school.
- (5) The Minister must give a copy of each direction, given under this section, 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.

**117 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 of a school council, the liability attaches instead to the State.

## **Chapter 7      Parents and citizens associations**

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

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

- (1) A parents and citizens association may be formed for a State instructional institution in the way prescribed under a regulation.
- (2) The following persons are eligible to be members of a parents and citizens association formed for a State school—
  - (a) a parent of a child attending the school;
  - (b) a staff member of the school;
  - (c) an adult, other than a person mentioned in paragraph (a) or (b), who is interested in the school's welfare.
- (3) The following persons are eligible to be members of a parents and citizens association formed for an educational institution established under section 14<sup>10</sup>—
  - (a) a staff member of the institution;
  - (b) an adult, other than a person mentioned in paragraph (a), who is interested in the institution's welfare.
- (4) A State instructional institution's principal is a member of a parents and citizens association formed for the institution.

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

- (1) An interim parents and citizens association may be formed for a proposed State instructional institution, in the way prescribed under a regulation, within 2 years before the institution's proposed first day of operation.

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10 Section 14 (Power to establish institutions that provide educational instruction to persons enrolled at State schools)

- (2) An adult interested in the welfare of a proposed State instructional institution is eligible to be a member of an interim parents and citizens association formed for the proposed State instructional institution.
- (3) An interim parents and citizens association formed for a proposed State instructional institution is taken to be a parents and citizens association formed for the institution from the start of operation of the institution.

## **120 Objectives of an association**

The objectives of an association are to promote the interests of, and facilitate the development and further improvement of, the State instructional institution, or proposed State instructional institution, for which it is formed.

## **121 Functions of an association**

- (1) An association has the following functions—
  - (a) fostering community interest in educational matters;
  - (b) trying to bring about closer cooperation between—
    - (i) for an association formed for a State school—the parents of children attending the school and other members of the community, staff members of the school and students of the school; or
    - (ii) for an association formed for an educational institution established under section 14—members of the community and staff members of the institution;
  - (c) if asked by the principal of the State instructional institution for which it is formed or of its own volition—giving advice and recommendations to the principal about issues relating to persons who receive educational instruction at the institution;
  - (d) if asked by the principal of the State instructional institution for which it is formed or of its own volition—giving advice and recommendations to the principal about the general operations and management of the institution;

- (e) giving, or assisting in the giving of, financial or other resources or services for the benefit of persons who receive educational instruction at the State instructional institution for which it is formed;
  - (f) performing any other functions, not inconsistent with this Act, as the Minister decides.
- (2) In the performance of its functions, an association must comply with this Act and any written directions the Minister may give the association about—
- (a) complying with departmental policies that apply to associations; or
  - (b) a matter relevant to the performance of its functions.

## **122 Dissolution of an association**

An association is dissolved—

- (a) if the State instructional institution for which it was formed is closed; or
- (b) if the number of members of the association is 2 or less; or
- (c) in other circumstances prescribed under a regulation.

## **Part 2 Officers of an association**

### **123 Officers**

- (1) An association must at each annual general meeting of the association elect from its members, as prescribed under a regulation, the following officers—
- (a) a president;
  - (b) at least 1 vice-president;
  - (c) a secretary;
  - (d) a treasurer;



- (e) any additional officers, as decided by the association.
- (2) The officers hold office in an honorary capacity.
- (3) The office of treasurer of the association must not be held by the person who is the president or secretary of the association.
- (4) The principal of the State instructional institution for which the association is formed may not be an office holder of the association.

## **124 Vacation of office**

- (1) The office of an officer of an association becomes vacant if the officer—
  - (a) dies; or
  - (b) resigns his or her office by signed notice given to—
    - (i) for the president—a vice-president, or the secretary or treasurer, of the association; or
    - (ii) for another officer—the president of the association; or
  - (c) is absent from 3 consecutive meetings of the association, of which the member has been given notice under the association's constitution, without the association's leave and without reasonable excuse.
- (2) A notice of resignation mentioned in subsection (1)(b) takes effect when the notice is given under that paragraph or, if a later time is stated in the notice, the later time.
- (3) In this section—

**meeting**, of the association, means—

  - (a) if the relevant officer does not attend—a meeting of the association with a quorum for the association present; or
  - (b) if the relevant officer attends—a meeting of the association with or without a quorum for the association present.



**127 Urgent matters**

- (1) For urgent matters only relating to the performance of the functions of an association, the executive committee of the association may take any necessary action.
- (2) Despite the quorum for the association and section 129(1), the action may be taken by a majority vote of the executive committee.
- (3) However, the executive committee may not remove a person as a member or officer of the association.
- (4) If the executive committee acts under subsection (1), details of the action must be tabled at the next scheduled general meeting of the association or at a special meeting called for that purpose.
- (5) Failure by the executive committee to comply with subsection (4) does not affect the validity of the action.

**Part 4 Business of an association****128 Presiding at meetings**

- (1) The president of an association must preside at all association meetings at which the president is present.
- (2) If the president is absent from an association meeting, but a vice-president of the association is present, a vice-president nominated and confirmed by majority vote at the meeting must preside.
- (3) If neither the president or a vice-president is present at an association meeting or the offices are vacant, an association member chosen by the members present must preside.

**129 Voting**

- (1) A question at an association meeting is decided by a majority of the votes of the members present.



## Part 7 Financial provisions

### 132 Use of money received by association

Subject to section 137(4), any money received by an association must be applied by the association, at the direction of the Minister, to the following purposes—

- (a) firstly, in paying expenses lawfully incurred by the association;
- (b) secondly, in achieving the objectives, and performing the functions, of an association.

### 133 Association is statutory body under the Statutory Bodies Financial Arrangements Act 1982

- (1) An association is a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B<sup>11</sup> sets out the way in which an association's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

### 134 Financial year

An association must have a financial year starting on 1 January in a year and ending on 31 December in the year.

### 135 Audit of accounts

- (1) Subject to the *Financial Administration and Audit Act 1977*, section 74,<sup>12</sup> the accounts of an association for each financial year must be audited as prescribed under a regulation.

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11 *Statutory Bodies Financial Arrangements Act 1982*, part 2B (Powers under this Act and relationship with other Acts)

12 *Financial Administration and Audit Act 1977*, section 74 (Exemption of certain public sector entities from audit by auditor-general)

- (2) An association must, by 31 May of the following year, give the chief executive a copy of its audited accounts for a financial year.

## **Part 8                      Relevant agreements**

### **136      Definition for pt 8**

In this part—

*relevant agreement*, for an association, means an agreement benefiting persons who receive educational instruction at the State instructional institution for which the association is formed.

### **137      Power to enter into relevant agreements**

- (1) Despite this Act or another Act, the Minister and an association, acting jointly or severally, may enter into a relevant agreement with any person.
- (2) If an association alone proposes to enter into a relevant agreement, before entering into the agreement, it must obtain the written approval of the Minister authorising it to enter into the agreement.
- (3) An approval under subsection (2) may be given—
  - (a) generally for a type of agreement; or
  - (b) for a particular agreement.
- (4) An association must deal with any money it receives under a relevant agreement—
  - (a) as the Minister directs; or
  - (b) otherwise—as the association believes appropriate, consistent with the objectives of an association.
- (5) A relevant 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 gazette.
- (6) The conditions may relate to a stated relevant agreement or relevant agreements of a stated type.

### **138 President to sign relevant agreement for an association**

If an association makes a resolution to enter into a relevant agreement, the association's president may sign the agreement for the association.

## **Part 9 General provisions**

### **139 Regulation may provide for membership**

- (1) A regulation may make provision about the way in which a person becomes a member of an association.
- (2) Subsection (1) is subject to section 118.<sup>13</sup>
- (3) However, a person's membership of an association 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.

### **140 Register of members**

An association must establish and maintain a register of members of the association in the way prescribed under a regulation.

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13 Section 118 (Formation of parents and citizens association)

**141 Protection from liability**

- (1) A member of an association 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 of an association, the liability attaches instead to the State.

**142 Association may employ**

An association may employ the persons it considers necessary to achieve the objectives of an association.

**143 Mandatory insurance cover**

An association must purchase and maintain the insurance cover required by the chief executive by notice published from time-to-time in the gazette.

**144 Proceedings**

- (1) A proceeding may be started, and conducted, in the name of an association by—
  - (a) the association's president; or
  - (b) another member of the association appointed in writing for this subsection by the president.
- (2) However, the Minister's approval must be obtained before starting the proceeding.
- (3) A proceeding may be started, and conducted, against an association in its name.
- (4) A document starting proceedings against an association under subsection (3), and any other document relevant to the proceedings, must be served on a member of the association's executive committee.
- (5) As soon as practicable after being served with a document under subsection (4), the person served with the document must give the chief executive a copy of the document.



- (6) The Minister may give an association a written direction about a proceeding started by or against the association under this section.
- (7) The association must comply with the direction.

**145 Notice of claim given under Personal Injuries Proceedings Act 2002, s 9(1)**

- (1) A notice of a claim required to be given to an association under the PIP Act, section 9(1) must be given to a member of the association's executive committee.
- (2) As soon as practicable after receiving a notice of a claim under subsection (1), the person who receives the notice must give the chief executive a copy of the notice.
- (3) The Minister may give an association a written direction about a notice of a claim given to the association under the PIP Act, section 9(1).
- (4) The association must comply with the direction.
- (5) In this section—

*claim* see the PIP Act, schedule.

*PIP Act* means the *Personal Injuries Proceedings Act 2002*.

**146 Authority of an association**

- (1) Subsection (2) applies to a State instructional institution for which an association is formed.
- (2) Without derogating from the authority of the institution's principal in the principal's capacity as the person in charge of the institution, the association may exercise the authority in relation to the institution that is consistent with the functions of an association.
- (3) An association must not exercise any authority over the teaching staff, or over the control or management, of the State instructional institution for which the association is formed.

**147 Disclosure of interests by members of an association**

- (1) This section applies to a member of a relevant entity (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 entity; and
  - (b) the interest could conflict with the proper performance of the interested 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 interested 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 of the entity 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—
  - (a) because of this section, a member of the entity 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); and
  - (b) there would be a quorum for the entity if the member were present;

the remaining members present are a quorum for the entity for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.

- (7) A disclosure under subsection (2) must be recorded in the entity's minutes.
- (8) In this section—
  - relevant entity* means—
    - (a) an association; or
    - (b) the executive committee, or a subcommittee, of an association.

### **148 Honorary life membership of an association**

- (1) An association, other than an interim parents and citizens association, may decide to award honorary life membership of the association to a person who is or was a member of the association.
- (2) The only basis for the award may be that the person has given long and meritorious service to the association.
- (3) The decision must be made by a two-third majority vote of the members present at an annual general meeting of the association.
- (4) A person who is the subject of a proposed resolution to award the person honorary life membership of an association must not—
  - (a) be present during discussions about the proposal, or voting on it, at a meeting of the association; and
  - (b) if the person is a member of the association—exercise the member's right to vote on the proposal, despite section 129(2).

## **Part 10 Removal of members and officers of an association**

### **149 Definitions for pt 10**

In this part—

***nominated person***, for an association, means a person who is a member, or a member and officer, of the association.

***notice of removal*** means a notice, under section 152(3), from an association to a nominated person for the association removing the nominated person.

***remove***, a nominated person for an association, means—

- (a) if the person is a member only of the association—remove the person as a member of the association; or
- (b) if the person is a member of the 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.

***removed person*** see section 153(1).

## **150 Removal of nominated person**

An association may remove a nominated person for the association only under this part.

## **151 Grounds for removal**

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

- (a) the nominated person is convicted of an indictable offence;
- (b) the nominated person, without reasonable excuse, contravenes this 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—
  - (i) the promotion of the interests of, or the facilitating of the development and further improvement of, the State instructional institution, or proposed State

instructional institution, for which the association is formed; or

- (ii) the good order and management of the State instructional institution, or proposed State instructional institution, for which the association is formed.

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

- (1) If an association considers a ground exists to remove a nominated person for the association, the association must give the nominated person a notice stating the following—
  - (a) the action (the *proposed action*) the association proposes taking under this part;
  - (b) the grounds for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) an invitation to 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 a member and an officer, or as an officer only.
- (3) The association must notify the nominated person of the decision.
- (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 day, 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 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 indictable 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.

### **153 Submissions against removal**

- (1) A nominated person for an association (the *removed person*) removed by the association under section 152 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 removed 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 given to the person.
- (3) The submission must be given to the Minister—
  - (a) within 14 days of the notice of removal being given to the removed person; or
  - (b) if the Minister allows a later time for giving the submission—the later time.
- (4) However, if the removed person resigns or purports to resign from the association as a member or officer after receipt of the notice of removal, the removed person may not make a submission under subsection (1).

#### **154 Dealing with submissions against removal**

- (1) If a submission is made by a removed person under section 153, the Minister must, as soon as practicable, consider the decision the subject of the submission (the *removal decision*) and the submission.
- (2) After reviewing the removal decision, the Minister must make a further decision (the *review decision*) to—
  - (a) confirm the removal decision; or
  - (b) amend the removal decision; or
  - (c) substitute another decision for the removal decision.
- (3) The Minister must, as soon as practicable, give notice to the removed person and relevant association about—
  - (a) the review decision; and
  - (b) the reasons for the review decision; and
  - (c) the removed person's right to appeal, under section 402, against the review decision, including the time within which the removed person may appeal.

## **Chapter 8      Enrolment at State schools**

### **Part 1            Applications for enrolment**

#### **Division 1        Requirements for enrolment**

##### **155    Application**

- (1) An application for the enrolment of a person (the *prospective student*) at a State school must—
  - (a) be made to the school’s principal; and
  - (b) be made in the approved form; and
  - (c) be accompanied by—
    - (i) satisfactory evidence that the applicant is eligible to apply for the enrolment; and
    - (ii) any other documents, identified in the form, the principal reasonably requires to decide the application.
- (2) The application may only be made by—
  - (a) if the prospective student is a child—a parent of the child; or
  - (b) if the prospective student is an adult—the prospective student.
- (3) Despite subsection (2)(a), if the prospective student is a child, the principal may deal with an application for enrolment at the school made by the child if the principal reasonably believes it is in the child’s best interests for the child to make the application.

##### **156    Enrolment**

- (1) Subject to subsections (2) and (3), the principal must enrol the prospective student at the school if the prospective student is entitled under this Act to be enrolled at the school.



- (2) If the principal reasonably believes the prospective student would, if enrolled at the school, pose an unacceptable risk to the safety or wellbeing of members of the school community, the principal must refer the application to the chief executive to be dealt with under division 2.
- (3) If the school is a special school, the principal must refer the application to the chief executive to be dealt with under division 3.

## **Division 2                      Applications relating to prospective students who are a risk to the safety or wellbeing of certain persons**

### **157      Application of div 2**

This division applies if a State school's principal, under section 156(2), refers an application for enrolment of a prospective student at the school to the chief executive.

### **158      Not a risk to safety or wellbeing**

- (1) Subsection (2) applies if the chief executive does not reasonably believe the prospective student would, if enrolled at the school, pose an unacceptable risk to the safety or wellbeing of members of the school community.
- (2) The chief executive must, as soon as practicable, refer the application back to the principal to be dealt with under section 156.
- (3) If the application is referred back to the principal under subsection (2), section 156(2) does not apply to the application.

### **159      Risk to safety or wellbeing**

- (1) If the chief executive reasonably believes the prospective student would, if enrolled at the school, pose an unacceptable risk to the safety or wellbeing of members of the school community, the chief executive must give the applicant a notice (a *show cause notice*) stating the following—

- (a) that the chief executive proposes to decide to refuse enrolment of the prospective student at the school (the ***proposed action***);
  - (b) the grounds for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) an invitation to the applicant to show within a stated period (the ***show cause period***) why the proposed action should not be taken.
- (2) The show cause period must be a period ending at least 14 days after the show cause notice is given to the applicant.

### **160 Representations about show cause notice**

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

### **161 Ending show cause process without further action**

- (1) If, after considering any accepted representations for the show cause notice, the chief executive does not reasonably believe the prospective student would, if enrolled at the school, pose an unacceptable risk to the safety or wellbeing of members of the school community, the chief executive—
  - (a) must not take further action about the show cause notice; and
  - (b) must, as soon as practicable, give notice to the applicant that no further action is to be taken about the show cause notice; and
  - (c) must, as soon as practicable, refer the application back to the principal to be dealt with under section 156.
- (2) If the application is referred back to the principal under subsection (1)(c), section 156(2) does not apply to the application.

**162 Refusal of enrolment**

- (1) This section applies if, after considering any accepted representations for the show cause notice, the chief executive reasonably believes the prospective student would, if enrolled at the school, pose an unacceptable risk to the safety or wellbeing of members of the school community.
- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The chief executive must decide to refuse enrolment of the prospective student at the school.
- (4) The chief executive must as soon as practicable—
  - (a) give an information notice about the decision to the applicant; and
  - (b) give the principal notice of the decision.
- (5) If the chief executive decides to refuse enrolment of the prospective student at the school under this section, the decision is binding on the principal.

**163 Time limit on making another application for enrolment**

If the applicant is given an information notice under section 162(4), a later application for enrolment of the prospective student at the school may not be made within 1 year after the giving of the information notice.

**Division 3 Enrolment at special schools****164 Application of div 3**

This division applies if a special school's principal, under section 156(3), refers an application for enrolment of a prospective student at the school to the chief executive.

**165 Meaning of *person with a disability***

- (1) A *person with a disability* is a person who is decided, in accordance with a policy approved under subsection (2), to be

unlikely to attain the levels of development of which the person is capable unless the person receives special education.

- (2) The Minister must approve a policy about the criteria to be considered in deciding whether a person is a person with a disability.
- (3) The chief executive must keep a copy of a policy approved under subsection (2) available for inspection and permit a person—
  - (a) to inspect the policy without fee; and
  - (b) to take extracts from the policy without fee.
- (4) For subsection (3)—
  - (a) a copy of the policy—
    - (i) must be kept at the head office of the department; and
    - (ii) may be kept at any other place the chief executive considers appropriate; and
  - (b) the copy kept under paragraph (a) must be available for inspection during office hours on business days for the office or place.
- (5) Also, the chief executive must supply a copy of a policy approved under subsection (2), or a part of the policy, to a person on request, without fee.
- (6) In addition, the chief executive must keep a copy of a policy approved under subsection (2) posted on the department's web site on the internet.

*Editor's note—*

The department's web site address on the internet is <[www.education.qld.gov.au](http://www.education.qld.gov.au)>.

## **166 Requirements for enrolment satisfied**

- (1) Subsection (2) applies if the chief executive is satisfied—
  - (a) the prospective student is a person with a disability; and
  - (b) the special school is able to cater for the educational needs of the prospective student.

- (2) The chief executive must, as soon as practicable, refer the application back to the principal to be dealt with under section 156.
- (3) If the application is referred back to the principal under subsection (2), section 156(3) does not apply to the application.

### **167 Requirements for enrolment not satisfied**

- (1) This section applies if the chief executive is not satisfied—
  - (a) the prospective student is a person with a disability; and
  - (b) the special school is able to cater for the educational needs of the prospective student.
- (2) The chief executive must decide to refuse enrolment of the prospective student at the school.
- (3) The chief executive must, as soon as practicable—
  - (a) give an information notice about the decision to the applicant; and
  - (b) give the principal notice of the decision.
- (4) If the chief executive decides to refuse enrolment of the prospective student at the school under this section, the decision is binding on the principal.

## **Part 2 Enrolment agreements**

### **168 Requirements relating to enrolment agreements**

- (1) A State school's principal must ensure an up-to-date enrolment agreement applies to the school.
- (2) The principal must, before enrolling a prospective student at the school, give a copy of the enrolment agreement to—
  - (a) if the prospective student is a child—a parent of the prospective student; or



**catchment area**, for a State school, means the geographical area decided by the chief executive from which the school is to have its principal intake of students.

**effective enrolment management plan**, for a State school, means an enrolment management plan that has effect for the school under section 170.

**enrolment management plan**, for a State school, means a document stating—

- (a) the school's catchment area; and
- (b) the school's enrolment capacity for persons whose principal place of residence is outside the catchment area; and
- (c) the requirements for enrolment at the school to be satisfied by a person whose principal place of residence is outside the catchment area.

## **170 Preparation of enrolment management plan**

- (1) The chief executive may prepare an enrolment management plan for a State school.
- (2) As soon as practicable after preparing an enrolment management plan for a State school, the chief executive must publish a notice in the gazette stating that—
  - (a) the enrolment management plan has been prepared; and
  - (b) a copy of the enrolment management plan is available for public inspection, without charge—
    - (i) during normal business hours at the department's head office; and
    - (ii) on the department's stated web site on the internet.
- (3) An enrolment management plan, prepared under subsection (1), has effect on and from—
  - (a) the day a notice about the enrolment management plan is published under subsection (2); or
  - (b) a later day stated in the notice.

**171 Applicant for enrolment—residing in catchment area**

- (1) This section applies if—
  - (a) a State school’s principal receives an application, under section 155, for the enrolment of a person at the school; and
  - (b) there is an effective enrolment management plan for the school; and
  - (c) the person’s principal place of residence is in the school’s catchment area stated in the effective enrolment management plan.
- (2) Subject to this Act, the person is entitled to be enrolled at the school.

**172 Applicant for enrolment—residing outside catchment area**

- (1) This section applies if—
  - (a) a State school’s principal receives an application, under section 155, for the enrolment of a person at the school; and
  - (b) there is an effective enrolment management plan for the school; and
  - (c) the person’s principal place of residence is outside the school’s catchment area stated in the effective enrolment management plan; and
  - (d) the school’s enrolment capacity for persons whose principal place of residence is outside the catchment area, stated in the effective enrolment management plan, is not satisfied.
- (2) Subject to this Act, the person is entitled to be enrolled at the school if the person satisfies the requirements for enrolment stated in the effective enrolment management plan.



## Part 4                      Enrolment eligibility plans

### 173      Definitions for pt 4

In this part—

*effective enrolment eligibility plan*, for a State school, means an enrolment eligibility plan that has effect for the school under section 174.

*enrolment eligibility plan*, for a State school, means a document stating—

- (a) the school's enrolment capacity; and
- (b) the requirements for enrolment at the school.

### 174      Preparation of enrolment eligibility plan

- (1) The chief executive may prepare an enrolment eligibility plan for a State school.
- (2) As soon as practicable after preparing an enrolment eligibility plan for a State school, the chief executive must publish a notice in the gazette stating that—
  - (a) the enrolment eligibility plan has been prepared; and
  - (b) a copy of the enrolment eligibility plan is available for public inspection, without charge—
    - (i) during normal business hours at the department's head office; and
    - (ii) on the department's stated web site on the internet.
- (3) An enrolment eligibility plan, prepared under subsection (1), has effect on and from—
  - (a) the day a notice about the enrolment eligibility plan is published under subsection (2); or
  - (b) a later day stated in the notice.

### 175      Application for enrolment

- (1) This section applies if—

- (a) a State school's principal receives an application, under section 155, for the enrolment of a person at the school; and
  - (b) there is an effective enrolment eligibility plan for the school; and
  - (c) the school's enrolment capacity, stated in the effective enrolment eligibility plan for the school, is not satisfied.
- (2) Subject to this Act, the person is entitled to be enrolled at the school if the person satisfies the requirements for enrolment stated in the effective enrolment eligibility plan.

## **Chapter 9      Compulsory schooling**

### **Part 1            Compulsory schooling                          requirement**

#### **Division 1        Parents' obligations**

##### **176      Obligation of each parent**

- (1) Each parent of a child who is of compulsory school age must—
- (a) ensure the child is enrolled at a State school or non-State school; and
  - (b) ensure the child attends the State school or non-State school, on every school day, for the educational program in which the child is enrolled;

unless the parent has a reasonable excuse.

Maximum penalty—

- (a) for a first offence—6 penalty units; or

- (b) for a second or subsequent offence, whether or not relating to the same child of the parent—12 penalty units.
- (2) Without limiting subsection (1), it is a reasonable excuse for a parent (the *relevant parent*) that—
  - (a) the child lives with another parent and the relevant parent believes, on reasonable grounds, that the other parent is complying with subsection (1); or
  - (b) in all the circumstances, the relevant parent is not reasonably able to control the child’s behaviour to the extent necessary to comply with subsection (1).
- (3) Subsection (1) applies subject to parts 2 to 4.<sup>14</sup>

## **177 What is attendance**

- (1) A child attends a State school or non-State school only if the child complies with the school’s requirements about physically attending, at particular times, its premises or another place.
- (2) However, despite subsection (1)—
  - (a) a child enrolled in a program of distance education is taken to attend the school of distance education offering the program by completing and returning the assigned work for the program; and
  - (b) a child enrolled in an external program is taken to attend the State school or non-State school offering the program by complying with its requirements about communicating with or contacting the school for the purpose of participating in the program.

## **178 Notice to, and meeting with, parent**

- (1) This section applies if an authorised officer reasonably suspects—

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<sup>14</sup> Parts 2 (Flexible arrangements), 3 (Exemption from compliance with compulsory schooling requirement) and 4 (Other circumstances in which compulsory schooling requirement does not apply)

- (a) a child who is of compulsory school age—
  - (i) is not enrolled at a State school or non-State school; or
  - (ii) is not attending the State school or non-State school at which the child is enrolled, on every school day, for the educational program in which the child is enrolled; and
- (b) parts 2 to 4 do not apply to the child.
- (2) The officer may give a parent of the child a notice in the approved form about the parent's obligation under section 176(1).
- (3) The officer may also meet with the parent to discuss the obligation.
- (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>15</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.

### **179 Limits on proceedings against a parent**

- (1) Proceedings for an offence against section 176(1) 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—

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<sup>15</sup> *Police Powers and Responsibilities Act 2000*, section 14 (Helping public officials exercise powers under other Acts) was renumbered as section 16 under that Act, section 810.

- (i) the parent has been given a notice under section 178(2); and
  - (ii) at least 1 meeting has been held with the parent under section 178(3) or the parent has been given a warning notice under section 178(4).
- (2) The chief executive (child safety) is not liable to be prosecuted for an offence against section 176(1).

## **Division 2                      Chief executive may obtain information from non-State schools**

### **180      Notice to principal of non-State school**

- (1) The chief executive may, by notice given to the principal of a non-State school, ask the principal for information about the enrolment or attendance at the school of a child who is of compulsory school age.
- (2) Without limiting subsection (1), the chief executive may ask for information that the chief executive believes may—
  - (a) help in the investigation of an alleged contravention of section 176(1); or
  - (b) help the chief executive or an authorised person acting under section 178; or
  - (c) otherwise help the chief executive or an authorised person to decide whether or not a parent is contravening section 176(1).

### **181      Protection from liability**

- (1) This section applies to a principal of a non-State school for complying with a request of the chief executive under section 180.
- (2) The principal is not civilly liable for an act done, or omission made, honestly and without negligence for complying with the request.

- (3) If subsection (2) prevents a civil liability attaching to the principal, the liability attaches instead to the non-State school's governing body.

## **Part 2                      Flexible arrangements**

### **182      Flexible arrangements—non-State school**

- (1) The authorised entity for a non-State school may approve arrangements for a student enrolled at the school that are to apply to the student instead of participation in the school's educational programs in the usual way.
- (2) The authorised entity may approve the arrangements only if—
- (a) a teacher has prepared written assessments of—
    - (i) the student's educational and other needs; and
    - (ii) the learning outcomes that the arrangements are intended to achieve; and
    - (iii) the suitability of each provider for the arrangements; and
  - (b) the authorised 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 authorised entity is satisfied the arrangements are appropriate, having regard to—
    - (i) the student's individual needs and circumstances; and

- (ii) what the authorised 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.
- (3) However, the authorised entity must not approve the arrangements unless—
  - (a) if the student is of compulsory school age—
    - (i) a parent of the student has given written agreement to the arrangements; and
    - (ii) the authorised entity has discussed the arrangements with the student to the extent the authorised entity considers appropriate, having regard to the student's age and other relevant circumstances; or
  - (b) if the student is in the compulsory participation phase—
    - (i) the student gives written agreement to the arrangements; and
    - (ii) the authorised entity has discussed the arrangements with the student's parents to the extent the authorised entity considers is practicable and appropriate in the circumstances.
- (4) The non-State school's governing body 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 (3).

- (5) Subsection (3)(a)(i) does not apply if the authorised entity is satisfied it would be 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.

- (6) In this section—

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

- (a) the school's governing body; 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 who is of compulsory school age or in the compulsory participation phase.

### **183 Flexible arrangements—State school**

- (1) The chief executive may approve arrangements for a student enrolled at a State school that are to apply to the student instead of participation in the school's educational programs in the usual way.
- (2) Section 182(2), (3), (5) and (6), 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 school.



## **Part 3                      Exemption from compliance with compulsory schooling requirement**

### **Division 1                Preliminary**

#### **184      Definition for pt 3**

In this part—

*exemption* means an exemption from compliance with section 176(1).

### **Division 2                Bases for granting an exemption**

#### **185      Attendance is impossible or should not be required**

The chief executive may issue an exemption for a child if the chief executive is reasonably satisfied—

- (a) the child can not attend a State school or non-State school; or
- (b) it would be unreasonable in all the circumstances to require the child to attend a State school or non-State school.

### **Division 3                Application process**

#### **186      Application for exemption**

- (1) A parent of a child may apply for an exemption for the child for a stated or indefinite period.
- (2) The application must—
  - (a) be made to the chief executive; and
  - (b) be in the approved form.

- (3) The applicant must provide any other relevant information reasonably required by the chief executive to decide the application.

### **187 Lapsing of application**

- (1) The chief executive may make a requirement under section 186(3), for information to decide the application, by giving the applicant a notice stating—
  - (a) the required information; and
  - (b) the time by which the information must be given to the chief executive; and
  - (c) that, if the information is not given to the chief executive by the stated time, the application will lapse.
- (2) The time stated must be reasonable and, in any case, at least 14 days after the requirement is made.
- (3) The chief executive may withdraw the requirement, or part of the requirement, at any time.
- (4) Before the stated time ends, the chief executive may give the applicant a further notice extending the stated time if the chief executive is satisfied it would be reasonable in all the circumstances to give the extension.
- (5) If the applicant does not comply with the requirement within the stated time, or any extension, the application lapses.

### **188 Temporary exemption until application is decided**

Section 176(1) does not apply to a parent of the child until—

- (a) 14 days after the chief executive gives notice to the applicant under section 189; or
- (b) the application lapses.

### **189 Decision**

- (1) The chief executive must consider the application and either grant, or refuse to grant, the application.

- (2) If the chief executive decides to grant the application, the chief executive must as soon as practicable issue the exemption to the applicant.
- (3) If the chief executive decides to refuse to grant the application, the chief executive must as soon as practicable give the applicant an information notice about the decision.

### **190 Contents of exemption**

- (1) This section applies if the chief executive decides to issue an exemption.
- (2) The exemption must state each of the following—
  - (a) the day the exemption is issued;
  - (b) the name of the child to whom the exemption relates;
  - (c) if the exemption does not apply for an indefinite period—the day of its expiry;
  - (d) any conditions on which the exemption is granted.

### **191 Imposition of conditions**

- (1) The chief executive may, in granting the application, decide to impose conditions on the exemption that are relevant and reasonable.
- (2) If the chief executive decides to issue an exemption on conditions, the chief executive must as soon as practicable give the applicant an information notice about the decision.

### **192 Lesser period of exemption than that applied for**

- (1) The chief executive may, in granting the application, decide to issue the exemption for a lesser period than that applied for by the applicant for the exemption.
- (2) If the chief executive decides to issue an exemption for a lesser period than that applied for by the applicant for the exemption, the chief executive must as soon as practicable give the applicant an information notice about the decision.

## Division 4                      Cancellation of exemption

### 193      **Grounds for cancellation**

Each of the following is a ground for cancelling an exemption for a child—

- (a) the ground for the issue of the exemption no longer applies to the child; or
- (b) a condition of the exemption has been contravened.

### 194      **Show cause notice**

- (1) If the chief executive reasonably believes a ground exists to cancel the exemption for a child, the chief executive must give a parent of the child a notice under this section (a *show cause notice*).
- (2) The show cause notice must state the following—
  - (a) the action (the *proposed action*) the chief executive proposes taking under this division;
  - (b) the ground for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the ground;
  - (d) an invitation to the parent to show within a stated period (the *show cause period*) why the proposed action should not be taken.
- (3) The show cause period must be a period ending at least 30 days after the show cause notice is given to the parent.

### 195      **Representations about show cause notice**

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

**196 Ending show cause process without further action**

If, after considering any accepted representations for the show cause notice, the chief executive no longer believes the ground to cancel the exemption exists, the chief executive—

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

**197 Cancellation**

(1) This section applies if, after considering any accepted representations for the show cause notice, the chief executive—

- (a) still believes the ground to cancel the exemption exists; and
- (b) believes cancellation of the exemption is warranted.

(2) This section also applies if there are no accepted representations for the show cause notice.

(3) The chief executive may decide to cancel the exemption.

(4) The chief executive must, as soon as practicable, give an information notice about the decision to the parent.

(5) The decision does not take effect until—

- (a) the last day to apply for a review of the decision; or
- (b) if the decision is reviewed—
  - (i) the last day to appeal against the review decision; or
  - (ii) if an appeal is started against the review decision—the day the appeal is decided.

(6) In this section—

***appeal***, against a review decision, means appeal against the decision under chapter 15, part 2.

*review*, of a decision, means review of the decision under chapter 15, part 1.

*review decision* see section 392(2).

## **Part 4**                      **Other circumstances in which compulsory schooling requirement does not apply**

### **198**      **Activities under Commonwealth law**

Section 176(1) does not apply to the extent it is inconsistent with a law of the Commonwealth under which a person who is of compulsory school age may carry on an activity other than attending a State school or non-State school.

### **199**      **Home education**

- (1) Section 176(1) does not apply to a child who is provisionally registered, or registered, for home education under part 5.
- (2) Also, section 176(1) does not apply to a child—
  - (a) if an application has been made, under part 5, for the provisional registration, or registration, of the child for home education; and
  - (b) the applicant has not been given notice of the decision on the application.

### **200**      **Child's exclusion or suspension**

- (1) Section 176(1) does not apply—
  - (a) to a child who is excluded from all State schools; or
  - (b) for a child who is excluded from a particular State school, during the time reasonably required, after the exclusion, for a parent of the child—
    - (i) to arrange the child's enrolment with another State school or a non-State school; or

- (ii) to provisionally register, or register, the child for home education under part 5; or
- (c) for a child who is excluded from particular State schools, during the time reasonably required, after the exclusion, for a parent of the child—
  - (i) to arrange the child’s enrolment with a State school not affected by the exclusion or a non-State school; or
  - (ii) to provisionally register, or register, the child for home education under part 5.
- (2) Section 176(1)(b) does not apply—
  - (a) for a child who is suspended from a State school at which the child is enrolled—while the child is suspended and the child’s access to an educational program under section 286(2) or 291 has not been arranged; or
  - (b) for a child who is suspended from a non-State school at which the child is enrolled—while the child is suspended.
- (3) In this section—

*excluded* means excluded under chapter 12, part 4.<sup>16</sup>

*suspended* means suspended under chapter 12, part 4.

## **201 Child’s illness**

- (1) Section 176(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 school or non-State school at which the child is enrolled.

*Note—*

For a child who is prevented by illness from attending school for a longer period, see part 3 for the chief executive’s power to grant an exemption from compliance with section 176(1) for the child.

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<sup>16</sup> Chapter 12 (Good order and management of State educational institutions and non-State schools), part 4 (Suspension, exclusion and cancellation of enrolment of, and behaviour improvement conditions for, State school students)

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

## **202 Infectious or contagious disease or condition**

Section 176(1)(b) does not apply to a child who is prevented from attending school because the child is, or is a member of a class of persons that is, subject to a direction given, or declaration, order or requirement made, under an Act or other law about an infectious or contagious disease or condition.

## **203 Application for enrolment pending**

Section 176(1) does not apply to a child—

- (a) if an application has been made, under section 155, for the enrolment of the child at a State school; and
- (b) the applicant has not received notice of the decision on the application.

## **204 Apprentice or trainee under the VETE Act**

Section 176(1) does not apply to a child who is, or for whom an arrangement has been made for the child to become, an apprentice or trainee under the VETE Act.

# **Part 5 Home education**

## **Division 1 Preliminary**

### **205 Definitions for pt 5**

In this part—

*home education*, for a child, means the education of the child provided by 1 or both of the child's parents, or a registered teacher, primarily at the child's usual place of residence.



**provisional registration**, of a child for home education, means the provisional registration of the child for home education under section 207.

**registration**, of a child for home education, means the registration of the child for home education under section 213.

**standard conditions of registration** see section 217(1).

## **206 Who is eligible for provisional registration or registration**

A child who is of compulsory school age, or in the compulsory participation phase, is eligible for provisional registration, or registration, for home education.

## **Division 2 Applications for provisional registration**

### **207 Provisional registration**

- (1) An application for provisional registration of a child for home education must—
  - (a) be made in writing to the chief executive; and
  - (b) state—
    - (i) the applicant's name; and
    - (ii) the child's name and date of birth; and
    - (iii) the address of the child's usual place of residence; and
  - (c) be accompanied by evidence, satisfactory to the chief executive, that—
    - (i) the child is eligible for provisional registration for home education; and
    - (ii) the applicant is a parent of the child.
- (2) The chief executive must, as soon as practicable after receiving the application, notify the applicant that the child is provisionally registered for home education.

- (3) Provisional registration of the child for home education ends 60 days after the giving of the notice under subsection (2).
- (4) However, if an application is made for registration of the child for home education during the provisional registration period, the provisional registration continues until the day the chief executive notifies the applicant of the chief executive's decision on the application.
- (5) An application under this section may relate to only 1 child.

### **Division 3                      Applications for registration**

#### **208      Procedural requirements for application**

- (1) An application for registration of a child for home education must be—
  - (a) made to the chief executive; and
  - (b) in the approved form; and
  - (c) accompanied by—
    - (i) evidence, satisfactory to the chief executive, that—
      - (A) the child is eligible for registration for home education; and
      - (B) the applicant is a parent of the child; and
    - (ii) a summary of the educational program to be used, or learning philosophy to be followed, for the home education; and
    - (iii) any other documents, identified in the approved form, the chief executive reasonably requires to decide the application.
- (2) Information in, or accompanying, the application must, if the approved form requires, be verified by a statutory declaration.
- (3) An application under this section may relate to only 1 child.

**209 Withdrawal of application**

- (1) A person may, by notice given to the chief executive, withdraw the person's application for the registration of a child for home education.
- (2) If, under subsection (1), a person withdraws the person's application for the registration of a child for home education, the child's provisional registration for home education under section 212 is cancelled.

**210 Chief executive must ensure compliance with procedural requirements**

- (1) If the chief executive considers an application for the registration of a child for home education does not comply with a procedural requirement, the chief executive must, by notice given to the applicant, require the applicant to comply with the requirement within a reasonable period, of at least 28 days, stated in the notice.
- (2) However, the chief executive and applicant may, within the period stated in the notice, agree to extend the period for complying with the procedural requirement to a day (the *agreed compliance day*) after the end of the period stated in the notice.
- (3) If the applicant does not comply with the procedural requirement within the period stated in the notice, or by the agreed compliance day, the chief executive may decide to refuse to grant the application.
- (4) If the chief executive decides to refuse to grant the application—
  - (a) the chief executive must give the applicant an information notice about the decision; and
  - (b) the child's provisional registration for home education under section 212 is cancelled.

**211 Chief executive may require further information or documents**

- (1) If the chief executive considers further information or a document is required for deciding an application for the

registration of a child for home education, the chief executive may, by notice given to the applicant, require the applicant to give the information or document to the chief executive within a reasonable period, of at least 28 days, stated in the notice.

- (2) The chief executive may also require the information or document to be verified by a statutory declaration.
- (3) Despite subsection (1), the chief executive and applicant may, within the period stated in the notice, agree to extend the period for complying with a requirement under subsection (1) to a day (the *agreed compliance day*) after the end of the period stated in the notice.
- (4) If the applicant does not comply with a requirement under subsection (1) within the period stated in the notice, or by the agreed compliance day, the chief executive may decide to refuse to grant the application.
- (5) If the chief executive decides to refuse to grant the application—
  - (a) the chief executive must give the applicant an information notice about the decision; and
  - (b) the child's provisional registration for home education under section 212 is cancelled.

## **212 Child taken to be provisionally registered while application decided**

- (1) This section applies if an application is made for the registration of a child for home education.
- (2) The child is provisionally registered, under this section, for home education until—
  - (a) if the chief executive decides to grant the application—the day the decision is made; or
  - (b) if the chief executive decides to refuse to grant the application—the day an information notice about the decision is given to the applicant under section 214(2).
- (3) The chief executive must, as soon as practicable after receiving the application, notify the applicant that the child is

provisionally registered, under this section, for home education.

### **213 Decision**

- (1) The chief executive must consider an application for the registration of a child for home education and decide whether the chief executive is satisfied the standard conditions of registration will be complied with.
- (2) If the chief executive is satisfied the standard conditions of registration will be complied with, the chief executive must decide to register the child for home education.

### **214 Steps to be taken after application decided**

- (1) If the chief executive decides to grant an application for the registration of a child for home education, the chief executive must as soon as practicable issue a certificate of registration, for the child, to the applicant.
- (2) If the chief executive decides to refuse to grant an application for the registration of a child for home education, the chief executive must as soon as practicable give the applicant an information notice about the decision.

### **215 Failure to decide application**

- (1) Subject to subsection (3), if the chief executive fails to decide an application for the registration of a child for home education within 90 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.
- (2) Subsection (3) applies if the chief executive has, under section 211(1), required an applicant for the registration of a child for home education to give the chief executive further information or a document.
- (3) The chief executive is taken to have decided to refuse to grant the application if the chief executive fails to decide the application within 90 days after the chief executive receives the further information or document.

**216 Minimum details to be recorded on certificate of registration**

A certificate of registration of a child for home education must include at least the following—

- (a) the child's name and date of birth;
- (b) the address of the child's usual place of residence;
- (c) the names of the child's parents;
- (d) any conditions of registration imposed by the chief executive.

**Division 4 Conditions of registration****217 Standard conditions**

- (1) The registration of a child for home education is subject to the following conditions (the *standard conditions of registration*)—
  - (a) the child's parents must ensure the child receives a high-quality education;
  - (b) a parent of the child must give to the chief executive a written report on the educational progress of the child while undertaking home education;
  - (c) a parent of the child must notify the chief executive of any change in the address of the child's usual place of residence within 28 days after the change happens.
- (2) A report mentioned in subsection (1)(b) must—
  - (a) be given to the chief executive at least 2 months, but not more than 3 months, before each anniversary of the registration; and
  - (b) be in the approved form; and
  - (c) be accompanied by any other documents, identified in the approved form, the chief executive reasonably requires.

**218 Imposition of conditions**

- (1) The chief executive may, in granting an application for the registration of a child for home education, decide to impose conditions on the registration that are relevant and reasonable.
- (2) If the chief executive decides to impose conditions on the registration, the chief executive must as soon as practicable give the applicant an information notice about the decision.

**219 Changing conditions**

- (1) The chief executive may change the conditions of the registration of a child for home education imposed by the chief executive if there is a reasonable basis to make the change.
- (2) Before deciding to change the conditions, the chief executive must—
  - (a) give notice to a parent of the child stating—
    - (i) the particulars of the proposed change; and
    - (ii) that the parent may make written submissions to the chief executive about the proposed change within a reasonable period of at least 21 days stated in the notice; and
  - (b) have regard to written submissions made to the chief executive by the parent within the stated period.
- (3) If the chief executive decides to change the conditions, the chief executive must as soon as practicable give the parent an information notice about the decision.
- (4) If the chief executive decides to change the conditions, the change takes effect on the day an information notice about the decision is given to the parent and does not depend on a replacement certificate of registration being issued under section 220.
- (5) The power of the chief executive under subsection (1) includes the power to add conditions to the registration of a child for home education that is not subject to conditions imposed by the chief executive.

**220 Replacing certificate of registration**

- (1) This section applies if a child's parent receives an information notice, under section 219(3), about a decision relating to a change of the conditions of the registration of the child for home education.
- (2) The parent must return the certificate of registration to the chief executive within 14 days after receiving the notice.
- (3) On receiving the certificate, the chief executive must issue another certificate of registration to the parent to replace the certificate returned to the chief executive.

**Division 5 Cancellation of registration****221 Grounds for cancellation**

Each of the following is a ground for cancelling the registration of a child for home education—

- (a) a parent of the child has contravened a condition of the registration;
- (b) the chief executive is not reasonably satisfied about the educational progress being made by the child;
- (c) the child was registered because of a materially false or misleading representation or declaration.

**222 Show cause notice**

- (1) If the chief executive reasonably believes a ground exists to cancel the registration of a child for home education, the chief executive must give a parent of the child a notice under this section (a *show cause notice*).
- (2) The show cause notice must state the following—
  - (a) the action (the *proposed action*) the chief executive proposes taking under this division;
  - (b) the ground for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the ground;



- (d) an invitation to the parent to show within a stated period (the *show cause period*) why the proposed action should not be taken.
- (3) The show cause period must be a period ending at least 30 days after the show cause notice is given to the parent.

### **223 Representations about show cause notice**

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

### **224 Ending show cause process without further action**

If, after considering any accepted representations for the show cause notice, the chief executive does not believe the ground exists to cancel the registration, the chief executive—

- (a) must not take further action about the show cause notice; and
- (b) must, as soon as practicable, notify the parent that no further action will be taken about the show cause notice.

### **225 Cancellation**

- (1) This section applies if, after considering any accepted representations for the show cause notice, the chief executive—
  - (a) still believes the ground exists to cancel the registration; and
  - (b) believes cancellation of the registration is warranted.
- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The chief executive may decide to cancel the registration.
- (4) The chief executive must as soon as practicable give an information notice about the decision to the parent.

- (5) The decision takes effect on the day an information notice about the decision is given to the parent.

## **226 Return of cancelled certificate of registration to chief executive**

- (1) This section applies if—
- (a) the chief executive decides to cancel the registration of a child for home education under section 225; and
  - (b) the decision takes effect under section 225(5).
- (2) The parent must return the certificate of registration to the chief executive within 28 days after the decision takes effect.
- (3) However, subsection (2) does not apply until—
- (a) the last day to apply for a review of the decision; or
  - (b) if the decision is reviewed—
    - (i) the last day to appeal against the review decision; or
    - (ii) if an appeal is started against the review decision—the day the appeal is decided.

- (4) In this section—

*appeal*, against a review decision, means appeal against the decision under chapter 15, part 2.

*review*, of a decision, means review of the decision under chapter 15, part 1.

*review decision* see section 392(2).

## **Division 6 Surrender of provisional registration or registration**

### **227 Surrender**

- (1) A parent of a child who is provisionally registered, or registered, for home education may, by notice given to the chief executive, surrender the provisional registration or registration.

- (2) The surrender takes effect—
  - (a) on the day the notice is given to the chief executive; or
  - (b) if a later day of effect is stated in the notice—on the later day.
- (3) If the child is registered for home education, the parent must return the certificate of registration to the chief executive within 14 days after the day the surrender takes effect.

## **228 Obligation to surrender**

- (1) This section applies if a child who is provisionally registered, or registered, for home education stops receiving home education.
- (2) A parent of the child must—
  - (a) as soon as practicable after the child stops receiving home education, surrender the provisional registration or registration under section 227; and
  - (b) if, at the time of the surrender, the child is enrolled by the parent, or an application has been made by the parent for the enrolment of the child, at a State school or non-State school—when giving notice of the surrender, notify the chief executive of the enrolment or application, and the school's name.

## **Division 7 Miscellaneous**

### **229 Simultaneous enrolment at State school or non-State school prohibited**

- (1) A child who is provisionally registered, or registered, for home education may not be simultaneously enrolled at a State school or non-State school.
- (2) A child is not eligible for provisional registration, or registration, for home education while the child is enrolled at a State school or non-State school.



*Note—*

See the *Child Employment Act 2006*, part 2<sup>17</sup> for other provisions restricting the ability of a child who is of compulsory school age to work.

## **Chapter 10      Compulsory participation in education or training**

### **Part 1              Key terms**

#### **231      Compulsory participation phase**

A young person's *compulsory participation phase*—

- (a) starts when the person stops being of compulsory school age; and
- (b) ends when the person—
  - (i) gains a certificate of achievement, senior statement, certificate III or certificate IV; or
  - (ii) has participated in eligible options for 2 years after the person stopped being of compulsory school age; or
  - (iii) turns 17 years.

**232 Eligible options and providers**

In the following table, each of the options listed is an *eligible option* and the entity stated opposite is the *provider* for the option.

| <b>eligible option</b>   | <b>provider</b>  |
|--|--|
| an educational program provided under this Act   | a State school   |
| an educational program provided under the <i>Education (Accreditation of Non-State Schools) Act 2001</i> | a non-State school   |
| a higher education course under the <i>Higher Education (General Provisions) Act 2003</i>                | a university or non-university provider  |
| a course of vocational education and training provided under the VETE Act                                | a TAFE institute, statutory TAFE institute or registered training organisation |
| an apprenticeship or traineeship under the VETE Act  | a registered training organisation   |
| a departmental employment skills development program under the VETE Act                                  | the VETE chief executive   |

## **Part 2 Participation in a program or course**

**233 Application of pt 2**

This part applies to an eligible option other than an apprenticeship or traineeship under the VETE Act.

**234 What is participation**

- (1) A young person is participating in an eligible option only if the person is—
  - (a) enrolled with the provider in the relevant program or course; and

- (b) complying with the provider's attendance requirements for the program or course.
- (2) The provider's attendance requirements for a program or course are the requirements about physically attending, at particular times, the provider's premises or another place.
- (3) However, despite subsection (2)—
  - (a) the provider's attendance requirements for a program of distance education are to complete and return the assigned work for the program; and
  - (b) the provider's attendance requirements for an external program are its requirements about communicating with or contacting the provider for the purpose of participating in the program or course.

## 235 Full-time participation

A reference to full-time participation in an eligible option—

- (a) is a reference to participation in an eligible option at a level that is full-time under the requirements of the option; and
- (b) includes part-time participation in 2 or more eligible options to an extent that is at least equivalent to full-time participation in 1 option.

*Example for paragraph (b)—*

A young person is participating part-time in an educational program at a State school or non-State school (the *school program*) and part-time in a course of vocational education and training at a TAFE institute or statutory TAFE institute (the *VET course*).

The levels of the young person's participation are—

- 60% of full-time participation in the school program
- 40% of full-time participation in the VET course.

**236 Allowed absence**

A young person's participation in an eligible option is taken to continue during an absence allowed under the requirements of the option.

*Example—*

A person enrolled in an educational program at a State school is absent for a day because of illness.

**237 Suspension or exclusion**

- (1) If a young person participating in an eligible option stops attending the provider because the person has been suspended from the provider, the person's participation in the option is taken to continue during the period of the suspension.
- (2) Subsection (1) does not apply to suspension from a State school under chapter 12, part 4, division 1 or 2<sup>18</sup> if the person has been placed in an educational program under section 286(2) or 291.

*Note—*

Section 234(1) and (3)(b) provide for how the person participates in the educational program.

- (3) If a young person participating in an eligible option stops attending the provider because the person has been excluded from the provider, the person is taken for this chapter to be continuing to participate in an eligible option, at the same level as before the exclusion, for the time reasonably required for the person to resume participation in an eligible option.

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18 Chapter 12 (Good order and management of State educational institutions and non-State schools), part 4 (Suspension, exclusion and cancellation of enrolment of, and behaviour improvement conditions for, State school students), division 1 (Suspension of students) or 2 (Exclusion of students by principals' supervisors)



## Part 3 Participation in an apprenticeship or traineeship

### 238 Participation in an apprenticeship or traineeship

- (1) This section applies to a young person who is an apprentice or trainee under the VETE Act.
- (2) The person is taken to be participating full-time in an apprenticeship or traineeship under the VETE Act.

## Part 4 Parents' obligation

### 239 Obligation to ensure participation

- (1) Each parent of a young person in the compulsory participation phase must ensure the young person is participating full-time in an eligible option, unless the parent has a reasonable excuse.

Maximum penalty—

- (a) for a first offence—6 penalty units; or
- (b) for a second or subsequent offence, whether or not relating to the same child of the parent—12 penalty units.

*Note—*

To help parents comply with this obligation, the QSA Act, section 21V gives parents access to information held by the QSA about a young person's participation in eligible options.

- (2) Without limiting subsection (1), it is a reasonable excuse for a parent (the *relevant parent*) that—
  - (a) the young person lives with another parent and the relevant parent believes, on reasonable grounds, the other parent is ensuring the young person participates full-time in an eligible option; or
  - (b) in all the circumstances, the relevant parent is not reasonably able to control the young person's behaviour

to the extent necessary to ensure the young person participates full-time in an eligible option.

## **240 Exceptions to obligation**

- (1) Section 239(1) does not apply to the extent provided under an exemption in force under part 5.
- (2) Section 239(1) does not apply if—
  - (a) the young person is in paid employment for at least 25 hours each week; or
  - (b) the young person is in paid employment for less than 25 hours each week, or unpaid employment, under an employment exemption.
- (3) Section 239(1) does not apply if the young person is enrolled with an entity providing a non-departmental employment skills development program and attending the entity for the program.
- (4) Section 239(1) does not apply to the extent of any inconsistency with a law of the Commonwealth under which a young person in the compulsory participation phase may carry on an activity other than participating full-time in an eligible option.
- (5) Section 239(1) does not apply if the young person is provisionally registered, or registered, for home education under chapter 9, part 5.
- (6) In this section—

*employment exemption* means an employment exemption in force under the VETE Act, chapter 5, part 3, division 5A.<sup>19</sup>

## **241 Notice to, and meeting with, parent**

- (1) This section applies if an authorised officer reasonably suspects a young person is in the compulsory participation phase and is not participating full-time in an eligible option.

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<sup>19</sup> VETE Act, chapter 5 (Ombudsman and council), part 3 (Training and Employment Recognition Council), division 5A (Deciding employment exemptions)

- (2) The officer may give a parent of the young person a notice in the approved form about the parent's obligation under section 239(1).
- (3) The officer may also meet with the parent to discuss the obligation.
- (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>20</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.

## **242 Limits on proceedings against a parent**

- (1) Proceedings for an offence against section 239(1) 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 241(2); and
    - (ii) at least 1 meeting has been held with the parent under section 241(3) or the parent has been given a warning notice under section 241(4).
- (2) The chief executive (child safety) is not liable to be prosecuted for an offence against section 239(1).

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<sup>20</sup> *Police Powers and Responsibilities Act 2000*, section 14 (Helping public officials exercise powers under other Acts) was renumbered as section 16 under that Act, section 810.

## **Part 5 Exemptions from compliance with compulsory participation requirements**

### **Division 1 Bases for granting an exemption**

#### **243 Explanation**

This division states the bases on which the chief executive may grant an exemption from the requirement that a young person participate in an eligible option.

#### **244 Participation is impossible or should not be required**

- (1) The chief executive may grant an exemption fully excusing a young person from participation if the chief executive is satisfied—
  - (a) the young person can not participate in any eligible option; or
  - (b) it would be unreasonable in all the circumstances to require the young person to participate in any eligible option.
- (2) The chief executive may grant an exemption partially excusing a young person from participation if the chief executive is satisfied—
  - (a) the young person can not participate in any eligible option at a full-time level; or
  - (b) it would be unreasonable in all the circumstances to require the young person to participate in any eligible option at a full-time level.

## **Division 2                      Application process**

### **245      Application for exemption**

- (1) A young person, or a parent of a young person, may apply to the chief executive for an exemption from the requirement that the young person participate in an eligible option.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) state the period for which the exemption is sought; and
  - (c) for an application by a young person—include the signed consent of a parent of the young person.
- (3) However, subsection (2)(c) does not apply if the chief executive is satisfied it would be inappropriate in all the circumstances to require the signed consent of a parent.

*Example—*

an application by a young person living independently of his or her parents

- (4) The applicant must provide any other relevant information reasonably required by the chief executive to decide the application.

*Example—*

If exemption is sought because the young person is suffering an illness, the information required under this subsection may include stated medical evidence.

- (5) The chief executive must decide the application as soon as practicable.

### **246      Lapsing of application**

- (1) The chief executive may make a requirement under section 245(4) by giving the applicant a notice stating—
  - (a) the required information; and
  - (b) the time by which the information must be given to the chief executive; and

- (c) that, if the information is not given to the chief executive by the stated time, the application will lapse.
- (2) The time stated must be reasonable and, in any case, at least 14 days after the requirement is made.
- (3) The chief executive may withdraw the requirement, or part of the requirement, at any time.
- (4) Before the stated time ends, the chief executive may give the applicant a further notice extending the stated time if the chief executive is satisfied it would be reasonable in all the circumstances to give the extension.
- (5) If the applicant does not comply with the requirement within the stated time, or any extension, the application lapses.

#### **247 Temporary exemption until application is decided**

- (1) If the application is made before the young person starts the person's compulsory participation phase, section 239(1) does not apply to a parent of the young person until—
  - (a) 14 days after the chief executive gives notice to the applicant under section 248; or
  - (b) the application lapses.
- (2) If the application is made while an existing exemption under this part is in force for the young person, the existing exemption continues to apply until 14 days after the chief executive gives notice to the applicant under section 248, or until the application lapses.

#### **248 Decision**

- (1) The chief executive must consider the application and either grant, or refuse to grant, the application.
- (2) If the chief executive decides to grant the application, the chief executive must as soon as practicable issue the exemption to the applicant.
- (3) If the chief executive decides to refuse to grant the application, the chief executive must as soon as practicable give the applicant an information notice about the decision.

**249 Contents of exemption**

- (1) This section applies if the chief executive decides to grant the exemption.
- (2) The exemption must state—
  - (a) the day it is granted; and
  - (b) the young person to whom it relates; and
  - (c) whether it is full or partial and, if it is partial, the extent to which the person is excused from participation; and
  - (d) whether it applies until the end of the person's compulsory participation phase or only until a stated earlier time; and
  - (e) any conditions on which it is issued.

**250 Imposition of conditions**

- (1) The chief executive may, in granting the application, decide to impose conditions on the exemption that are relevant and reasonable.
- (2) If the chief executive decides to issue an exemption on conditions, the chief executive must as soon as practicable give the applicant an information notice about the decision.

**251 Lesser period of exemption than that applied for**

- (1) The chief executive may, in granting the application, decide to issue the exemption for a lesser period than that applied for by the applicant for the exemption.
- (2) If the chief executive decides to issue an exemption for a lesser period than that applied for by the applicant for the exemption, the chief executive must as soon as practicable give the applicant an information notice about the decision.

## **Part 6**                      **Miscellaneous**

### **251A Disclosure by chief executive to appropriate entities**

To help in carrying on re-engagement activities, the chief executive may disclose the following information about a young person in the compulsory participation phase to an entity the chief executive considers appropriate—

- (a) name and any previous names;
- (b) address;
- (c) date of birth;
- (d) the last eligible option in which the young person participated, so far as the chief executive is aware;
- (e) other information prescribed under a regulation.

*Examples of entities that may be appropriate—*

- a provider
- a youth support entity
- a human services entity

### **251B Consultation about planning**

The chief executive must consult regularly with the following entities for the purpose of carrying on planning activities—

- (a) the Association of Independent Schools of Queensland Inc.;
- (b) the Queensland Catholic Education Commission;
- (c) the VETE chief executive.

### **251C Transitional**

To remove any doubt, it is declared that, despite section 231,<sup>21</sup> a young person is not in the compulsory participation phase if the person turned 15 years or completed year 10 before 1 January 2006.

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21 Section 231 (Compulsory participation phase)



**251D Confidentiality**

- (1) This section applies to a person (the *relevant person*)—
  - (a) who is or has been—
    - (i) the chief executive or a public service employee in the department; or
    - (ii) an entity, or an employee of an entity, to whom the chief executive has given information under section 251A; and
  - (b) who, in the course of the administration of this chapter, or because of opportunity provided by the administration, has gained or has access to personal information about a young person in the student account phase.
- (2) The relevant person must not make a record of the information or disclose the information to anyone else, other than—
  - (a) for a purpose of this chapter; or
  - (b) with the consent of the person to whom the information relates; or
  - (c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or
  - (d) as permitted or required by another Act.Maximum penalty—50 penalty units.
- (3) Subsection (2) continues to apply to personal information about a young person in the student account phase after the phase ends.
- (4) In this section—

*disclose*, information, includes give access to the information.

*employee*, of a provider, the QSA or another entity, includes—
  - (a) a person appointed to a position with the entity; and
  - (b) a person engaged by the entity under a contract for services; and
  - (c) an unpaid employee of the entity.

*personal information* means information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

*student account phase* see the QSA Act, section 21C.

## **251E Delegation by chief executive**

- (1) The chief executive may delegate the chief executive's powers under this chapter to an appropriately qualified officer or employee of the department or the VETE department.
- (2) A delegation of a power may permit the subdelegation of the power to an appropriately qualified officer or employee of the department or the VETE department.
- (3) In this section—

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

*Example of standing—*

a person's classification level in the public service

# **Chapter 12 Good order and management of State educational institutions and non-State schools**

## **Part 1 Preliminary**

### **274 Definition for ch 12**

In this chapter—

*court* means—

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

## **Part 2                      Behaviour plans for State schools**

### **275      Definition for pt 2**

In this part—

*approved behaviour plan*, for a State school, means a behaviour plan approved for the school under section 277(5) or 279(3).

### **276      Requirement for approved behaviour plan for a State school**

A State school’s principal must ensure there is an approved behaviour plan for the school.

### **277      Principal is responsible for developing behaviour plan**

- (1) A State school’s principal must ensure a process is established for developing a behaviour plan for the school.
- (2) In developing the plan, the principal must consult with the following persons—
  - (a) the parents of children enrolled at the school;
  - (b) the school’s staff and students.
- (3) The plan for the school must—
  - (a) promote a supportive environment at the school so all members of the school 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 school that allows positive aspirations, relationships and values to develop; and
  - (c) foster mutual respect among staff and students at the school; and
  - (d) encourage all students attending the school to take increasing responsibility for their own behaviour and the consequences of their actions.
- (4) Also, the plan must align with the department's policies about the management of student behaviour.
- (5) The plan has no effect unless it is approved by the chief executive.

## **278 Implementation of plan**

A State school's principal must take reasonable steps to ensure the approved behaviour plan for the school is implemented consistently, fairly and reasonably.

## **279 Review of plan**

- (1) A State school's principal must ensure the approved behaviour plan for the school is reviewed at least once every 3 years.
- (2) In reviewing the plan, the principal must consult with the following persons—
- (a) the parents of children enrolled at the school;
  - (b) the school's staff and students.
- (3) The reviewed plan has no effect unless it is approved by the chief executive.

## **280 Plan to be available for inspection**

- (1) A State school's principal must keep a copy of the approved behaviour plan for the school available for inspection, free of

charge, by interested persons at the administration office of the school.

- (2) The plan may be made available in written or electronic form.

### **281 Copies of plan to be given to parents and students**

- (1) As soon as practicable after a behaviour plan is approved for a State school, the school's principal must take reasonable steps to ensure a copy of the approved behaviour plan is given to—
- (a) a parent of each of the school's students who is a child; and
  - (b) each other student of the school.
- (2) Subsection (1)(a) does not apply in relation to a parent of a student if the principal is satisfied it would be inappropriate in the circumstances for the parent to be given a copy of the approved behaviour plan.

*Example—*

It may be inappropriate for a parent of the student to be given a copy of the approved behaviour plan if the student is living independently of his or her parents.

- (3) If subsection (2) applies, the principal must take reasonable steps to ensure a copy of the approved behaviour plan is given to the student.

### **282 Copy of plan to be given to applicant for enrolment**

If a person applies to enrol someone at a State school under section 155, the principal of the school must give the person a copy of the approved behaviour plan for the school.

## **Part 3 Detention of students enrolled at State schools**

### **283 Detention**

- (1) This section applies to a student enrolled at a State school.

- (2) The principal of, or a teacher at, the school may detain the student as punishment for disobedience, misconduct, wilful neglect to prepare homework or for another breach of school discipline.
- (3) A period of detention imposed under subsection (2) must not be more than—
  - (a) 20 minutes during the school lunch recess; or
  - (b) one-half hour after the school program for the day is finished.
- (4) However, if the principal or teacher proposes to impose a period of detention under subsection (2) on a child and the period of detention is to be served after the school program for the day is finished, the principal or teacher must inform a parent of the child of the proposed period of detention before it is imposed.
- (5) Subsection (4) does not apply if the principal or teacher is satisfied it would be inappropriate in the circumstances to inform a parent of the child of the proposed period of detention.

*Example—*

It may be inappropriate to inform a parent of the child of the proposed period of detention if the child is living independently of his or her parents.

## **Part 4                      Suspension, exclusion and    cancellation of enrolment of,    and behaviour improvement    conditions for, State school    students**

### **Division 1                      Suspension of students**

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

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

- (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 school or State schools.

#### **285      Suspension of student**

- (1) This section applies if a State school's principal is reasonably satisfied a ground exists to suspend a student from the school.
- (2) The principal may suspend the student from the school—
  - (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 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.
- (5) If the student is a child, as soon as practicable after the giving of the notice, the principal must take reasonable steps to—
- (a) if the suspension is for not more than 5 school days—contact a parent of the student to discuss the student's behaviour that led to the suspension; or
  - (b) if the suspension is for more than 5 school days—meet with a parent of the student to discuss the student's behaviour that led to the suspension.
- (6) Subsection (5) does not apply if the principal is satisfied it would be inappropriate in the circumstances to contact, or meet with, a parent of the student to discuss the student's behaviour that led to the suspension.

*Example—*

It may be inappropriate to contact, or meet with, a parent of the student to discuss the student's behaviour that led to the suspension if the student is living independently of his or her parents.

- (7) If subsection (6) applies in relation to subsection (5)(b)—
- (a) the principal must take reasonable steps to meet with the student to discuss the student's behaviour that led to the suspension; and
  - (b) the student may be accompanied by an adult during the meeting.

## **286 Continuing education during suspension**

- (1) If a student of a State school is suspended from the school under section 285 for not more than 5 school days, the school's principal must take reasonable steps to ensure the student is given school work to complete during the suspension.
- (2) If a student of a State school is suspended from the school under section 285 for more than 5 school days, the school's



principal must arrange for the student's access to an educational program that allows the student to continue with the student's education during the suspension.

**287 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.

**288 Dealing with submissions against suspensions**

- (1) If a submission is made under section 287 to a principal's supervisor, the supervisor must immediately consider the decision to suspend the student and the submission and—
  - (a) confirm the decision; or
  - (b) amend 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 confirm, amend or set aside the principal's decision to suspend, the supervisor must—
  - (a) as soon as practicable tell the student and principal—
    - (i) about the supervisor's decision; and
    - (ii) if the supervisor's decision allows the student to return to the school earlier, or later, than if the principal's decision had been confirmed—about when the student may return to the school; and
  - (b) within 7 days after telling the student about the supervisor's decision—give the student and principal notice of the decision and the reasons for the supervisor's decision.

## **Division 2                      Exclusion of students by principals' supervisors**

### **289      Grounds for exclusion of student by principal's supervisor**

- (1) Each of the following is a ground for excluding a student from a State school at which the student is enrolled or certain State schools, but not all State schools, under this division—
  - (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 school or schools;if the student's disobedience, misconduct or other conduct is so serious that suspension of the student from the school or schools is inadequate to deal with the behaviour.
- (2) Also, a student may be excluded from a State school at which the student is enrolled because of the student's contravention of a behaviour improvement condition, for the student's challenging behaviour, imposed or agreed to under division 8.

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

- (1) This section applies if a State school's principal is reasonably satisfied grounds exist to exclude a student from the State school at which the student is enrolled or certain State schools.
- (2) The principal may—
  - (a) recommend to the principal's supervisor that the student be excluded from the school or schools for a stated period of not more than 1 year or permanently; and
  - (b) suspend the student from the school at which the student is enrolled pending the supervisor's decision about the recommendation.
- (3) The principal must give the student a notice (the *notice recommending exclusion*) stating—

- (a) the principal has recommended to the principal's supervisor that the student be excluded from the school or stated State schools for a stated period of not more than 1 year or permanently and the reason for the recommendation; and
  - (b) the student is suspended from the school at which the student is enrolled 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 notice is given to the student or the longer period allowed by the supervisor under section 292(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, as soon as practicable after giving the notice recommending exclusion to the student, give a copy of the notice to the principal's supervisor.
- (5) If the student is a child, as soon as practicable after giving the notice recommending exclusion to the student, the principal must take reasonable steps to meet with a parent of the student to discuss the student's behaviour that led to the giving of the notice.
- (6) Subsection (5) does not apply if the principal is satisfied it would be inappropriate in the circumstances to meet with a parent of the student to discuss the student's behaviour that led to the giving of the notice.

*Example—*

It may be inappropriate to meet with a parent of the student to discuss the student's behaviour that led to the giving of the notice if the student is living independently of his or her parents.

- (7) If subsection (6) applies—
- (a) the principal must take reasonable steps to meet with the student to discuss the student's behaviour that led to the giving of the notice; and

- (b) the student may be accompanied by an adult during the meeting.

## **291 Continuing education during suspension**

If a student of a State school is suspended under section 290 from the school, the school's principal must arrange for the student's access to an educational program that allows the student to continue with the student's education during the suspension.

## **292 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 in the way stated in the notice.
- (2) The submission must—
  - (a) be made to the principal's supervisor no later than 5 school days after 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 or another person who may make a submission in relation to the notice asks the supervisor for a longer period to make the submission, the supervisor may, by notice given to the student or other person, state a longer period allowed for submissions.

## **293 Exclusion of student by principal's supervisor**

- (1) If—
  - (a) a State school's principal, under section 290(2), recommends to the principal's supervisor that a student of the school be excluded from the school or certain State schools for a period or permanently and gives the student a notice recommending exclusion; and
  - (b) the period of 5 school days after the day the student was given the notice, or the longer period allowed by the

supervisor under section 292(3), has expired and the supervisor—

- (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 a ground exists to exclude the student from the school or schools;

the supervisor may, no later than 20 school days after the day the notice was given to the student, exclude the student from the school or schools for a period of not more than 1 year or permanently.

- (2) Also, even though a State school's principal did not recommend to the principal's supervisor that a student of the school be excluded from the school or certain State schools, the supervisor may exclude the student from the school or certain State schools for a period of not more than 1 year or permanently, if the supervisor is reasonably satisfied grounds exist to exclude the student from the school or schools under section 289(1).
- (3) If the supervisor decides, under subsection (1) or (2), to exclude a student of a State school from the school or certain State schools, the supervisor must give the student a notice stating—
- (a) the student is excluded from the school or schools for a stated period of not more than 1 year or permanently and the reason for the exclusion; and
  - (b) that the student may make a submission to the chief executive, asking the chief executive to review the decision under division 5; and
  - (c) the title, name and address of the chief executive; and
  - (d) the way in which the submission may be made.
- (4) The supervisor may not decide, under subsection (1), to exclude a student of a State school for a longer period than the period of the proposed exclusion stated in the notice recommending exclusion given to the student.

- (5) The supervisor's power under subsection (1) or (2) to exclude a student of a State school from certain State schools applies in relation to a State school (the *relevant school*) only if the supervisor is the principal's supervisor of the relevant school's principal.

## **294 Decision not to exclude student**

- (1) Even if the supervisor may, under section 293(1), exclude a student of a State school from the school or certain State schools on a ground mentioned in section 289(1), the supervisor may decide not to exclude the student if the supervisor is reasonably satisfied the student may be allowed to resume attendance at the school without compromising the good order and management of the school.
- (2) If the supervisor decides not to exclude a student of a State school from the school or certain State schools, the supervisor must—
- (a) as soon as practicable tell the student and the school's principal—
    - (i) about the decision; and
    - (ii) that the suspension has ended and the student may resume attendance at the school; and
  - (b) within 7 days after telling the student about the decision—give notice to the student, and the principal, about the supervisor's decision and the reasons for the decision.
- (3) If the supervisor decides not to exclude a student of a State school from the school on the ground mentioned in section 289(2), the student's resumed attendance at the school remains subject to the student complying with the relevant behaviour improvement condition for the student's challenging behaviour.

## **295 Meeting with excluded student's parent**

- (1) If a student excluded by a principal's supervisor under section 293(2) is a child, as soon as practicable after giving the notice of the exclusion under section 293(3), the supervisor or an

officer of the department authorised by the supervisor must take reasonable steps to meet with a parent of the student to discuss the student's behaviour that led to the exclusion.

- (2) Subsection (1) does not apply if the supervisor or officer is satisfied it would be inappropriate in the circumstances to meet with a parent of the student to discuss the student's behaviour that led to the exclusion.

*Example—*

It may be inappropriate to meet with a parent of the student to discuss the student's behaviour that led to the exclusion if the student is living independently of his or her parents.

- (3) If subsection (2) applies—
- (a) the supervisor or officer must take reasonable steps to meet with the student to discuss the student's behaviour that led to the exclusion; and
  - (b) the student may be accompanied by an adult during the meeting.

## **296 Effect of exclusion on enrolment**

If a student is excluded under section 293 from a State school at which the student is enrolled, the enrolment is taken to be cancelled.

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

### **297 Chief executive's power to exclude student**

- (1) The chief executive may, under this division, exclude a student from a State school at which the student is enrolled, certain State schools or all State schools, if the chief executive is satisfied a ground mentioned in section 298 exists for the exclusion.
- (2) The chief executive may act under this division whether or not the student has already been suspended or excluded from a State school under this part.

**298 Grounds for exclusion of student by chief executive**

The grounds for excluding a student from a State school at which the student is enrolled, certain State schools or all State schools under this division are—

- (a) the student's attendance at the school or schools poses an unacceptable risk to the safety or wellbeing of other students or staff of the school or schools; or
- (b) the student has persistently engaged in gross misbehaviour that adversely affects the education of other students of the school at which the student is enrolled.

**299 Grounds for exclusion of mature age student by chief executive**

- (1) This section applies to a person who—
  - (a) is a mature age student of a mature age State school; and
  - (b) was 18 years or more on the day of enrolment at the school.
- (2) Without limiting section 298(a), each of the following is also a ground for excluding the student from the school under this division—
  - (a) the student has been convicted of a serious offence;
  - (b) the student has been convicted of an offence, other than a serious offence, and the chief executive is satisfied it is an exceptional case in which it would not be in the best interests of children for the student to continue to be enrolled at the school;
  - (c) the student has been charged with an offence and the chief executive is satisfied it is an exceptional case in which it would not be in the best interests of children for the student to continue to be enrolled at the school.

**300 Suspension pending final decision about exclusion**

- (1) If the chief executive is reasonably satisfied a ground exists to exclude a student from a State school at which the student is enrolled, certain State schools or all State schools, and the



student is not already suspended or excluded from the school or schools, the chief executive must immediately suspend the student from the school or schools 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 school or schools or, if the student is already suspended or excluded from the school or schools, 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 school or schools for a stated period of not more than 1 year or permanently; and
  - (c) the reason for the proposed exclusion; and
  - (d) that the student may make a submission to the chief executive against the proposed exclusion within 5 school days after the notice is given to the student or the longer period allowed by the chief executive under section 301(3); and
  - (e) the title, name and address of the chief executive; and
  - (f) 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 school at which the student is enrolled and the principal's supervisor.
- (4) If the student is a child, as soon as practicable after giving the notice, the chief executive must take reasonable steps to meet with a parent of the student to discuss the student's behaviour that led to the giving of the notice.
- (5) Subsection (4) does not apply if the chief executive is satisfied it would be inappropriate in the circumstances to meet with a parent of the student to discuss the student's behaviour that led to the giving of the notice.

*Example—*

It may be inappropriate to meet with a parent of the student to discuss the student's behaviour that led to the giving of the notice if the student is living independently of his or her parents.

- (6) If subsection (5) applies—
  - (a) the chief executive must take reasonable steps to meet with the student to discuss the student's behaviour that led to the suspension; and
  - (b) the student may be accompanied by an adult during the meeting.

### **301 Submissions against proposed exclusion**

- (1) A student given a notice under section 300 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 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 or another person who may make a submission in relation to the notice asks the chief executive for a longer period to make the submission, the chief executive may, by notice given to the student or other person, state a longer period allowed for submissions.

### **302 Exclusion of student by chief executive**

- (1) After considering any submissions received under section 301, the chief executive must decide whether—
  - (a) to exclude the student from the school or schools stated in the notice given to the student under section 300; and
  - (b) 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 300.
- (3) If the chief executive is reasonably satisfied a ground exists to exclude the student from a State school at which the student is

enrolled or certain State schools, the chief executive must give the student a notice stating—

- (a) that the student is excluded from the stated school or schools for a stated period of not more than 1 year or permanently; and
  - (b) the reason for the exclusion; and
  - (c) that the student may make a submission asking the chief executive to review the exclusion under division 5; and
  - (d) the title, name and address of the chief executive; and
  - (e) the way in which the submission may be made.
- (4) If the chief executive is reasonably satisfied a ground exists to exclude the student from all State schools, the chief executive must give the student a notice stating—
- (a) that the student is excluded from all State schools for a stated period of not more than 1 year or permanently; and
  - (b) the reason for the exclusion; and
  - (c) that the student has a right to appeal, under section 402, against the decision about the exclusion, and the time within which the student may appeal.
- (5) If the chief executive decides not to exclude the student, the chief executive must as soon as practicable give the student a notice stating—
- (a) the decision; and
  - (b) that the suspension has ended and the student may return to the State school at which the student was enrolled on the day of the suspension.
- (6) If the chief executive gives a notice under subsection (5), the suspension under section 300 ends.
- (7) The chief executive must give notice of the decision about the exclusion to the principal of a State school at which the student is or was enrolled and the principal's supervisor.

**303 Effect of exclusion on enrolment**

If a student is excluded under section 302 from a State school at which the student is enrolled, the enrolment is taken to be cancelled.

**304 Continuing education of certain excluded student**

- (1) This section applies to a student of a State school who is—
  - (a) of compulsory school age; or
  - (b) a young person in the compulsory participation phase.
- (2) If the student is excluded under section 302 from all State schools, the chief executive must take reasonable steps to arrange for the student's access to an educational program that allows the student to continue the student's education during the exclusion.

**Division 4 Exclusion of prospective students by chief executive****305 Application of div 4**

This division applies if—

- (a) a State school's principal, under section 156(2), refers an application for enrolment of a prospective student at the school to the chief executive; and
- (b) the chief executive gives the applicant a show cause notice under section 159.

**306 Risk to safety or wellbeing**

- (1) If the chief executive reasonably believes the prospective student's attendance at certain State schools or all State schools would pose an unacceptable risk to the safety or wellbeing of other students or staff of the schools, the chief executive must give the prospective student a notice (a *show cause notice*) stating the following—

- (a) that the chief executive proposes to exclude the prospective student from the schools for a stated period of not more than 1 year or permanently (the *proposed action*);
  - (b) the grounds for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) an invitation to the prospective student to show within a stated period (the *show cause period*) why the proposed action should not be taken.
- (2) The show cause period must be a period ending at least 14 days after the show cause notice is given to the prospective student.

### **307 Representations about show cause notice**

- (1) The prospective student may make written representations about the show cause notice to the chief executive in the show cause period.
- (2) The chief executive must consider all written representations (the *accepted representations*) made under subsection (1).

### **308 Ending show cause process without further action**

If, after considering any accepted representations for the show cause notice, the chief executive no longer reasonably believes the prospective student's attendance at certain State schools or all State schools would pose an unacceptable risk to the safety or wellbeing of other students or staff of the schools, the chief executive—

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

**309 Exclusion**

- (1) This section applies if, after considering any accepted representations for the show cause notice, the chief executive still reasonably believes the prospective student's attendance at certain State schools or all State schools would pose an unacceptable risk to the safety or wellbeing of other students or staff of the schools.
- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The chief executive must decide to exclude the prospective student from the schools.
- (4) The chief executive may not decide to exclude the prospective student for a longer period than the period of the proposed exclusion stated in the show cause notice given to the prospective student under section 306.
- (5) If the decision relates to certain State schools, the chief executive must give the prospective student a notice stating—
  - (a) that the prospective student is excluded from the stated schools for a stated period of not more than 1 year or permanently; and
  - (b) the reason for the exclusion; and
  - (c) that the prospective student may make a submission asking the chief executive to review the exclusion under division 5; and
  - (d) the title, name and address of the chief executive; and
  - (e) the way in which the submission may be made.
- (6) If the decision relates to all State schools, the chief executive must give the prospective student a notice stating—
  - (a) that the prospective student is excluded from all State schools for a stated period of not more than 1 year or permanently; and
  - (b) the reason for the exclusion; and
  - (c) that the prospective student has a right to appeal, under section 402, against the decision about the exclusion, and the time within which the student may appeal.

**310 Continuing education of certain excluded student**

- (1) This section applies to a prospective student of a State school who is—
  - (a) of compulsory school age; or
  - (b) a young person in the compulsory participation phase.
- (2) If the prospective student is excluded under section 309 from all State schools, the chief executive must take reasonable steps to arrange for the prospective student's access to an educational program that allows the prospective student to continue the student's education during the exclusion.

**Division 5 Review of particular exclusion decisions****311 Application of div 5**

This division applies to a person (the *excluded person*) who is excluded, under section 293, 302(3) or 309(5), from a State school at which the student is enrolled or certain State schools.

**312 Submission against exclusion decision**

- (1) The excluded person may make a submission against the decision to exclude the excluded person (the *exclusion decision*).
- (2) The submission must—
  - (a) be made to the chief executive within 30 school days after the day the excluded person is given notice of the exclusion decision under section 293, 302(3) or 309(5); and
  - (b) state fully the grounds for the submission and the facts relied on.

**313 Dealing with submissions against exclusions**

- (1) If a submission is made to the chief executive, the chief executive must, within 40 school days after receiving the submission, consider the exclusion decision and the submission and—
  - (a) confirm the exclusion decision; or
  - (b) amend the exclusion decision; or
  - (c) set aside the exclusion decision and make a new decision in substitution of the exclusion decision.
- (2) If the exclusion decision was made under section 293 or 302(3), after the chief executive has decided to confirm, amend or set aside the exclusion decision, the chief executive must—
  - (a) as soon as practicable tell the excluded person and relevant principal—
    - (i) about the chief executive’s decision; and
    - (ii) if the chief executive’s decision allows the excluded person to attend the school or schools earlier than if the exclusion decision had been confirmed—when the excluded person may attend the school or schools; and
  - (b) within 7 days after telling the excluded person about the chief executive’s decision, give notice of the chief executive’s decision and the reasons for the chief executive’s decision to—
    - (i) the person; and
    - (ii) the relevant principal; and
    - (iii) the relevant principal’s supervisor.
- (3) If the exclusion decision was made under section 309(5), after the chief executive has decided to confirm, amend or set aside the exclusion decision, the chief executive must—
  - (a) as soon as practicable tell the excluded person—
    - (i) about the chief executive’s decision; and
    - (ii) if the chief executive’s decision allows the excluded person to attend the school or schools



earlier than if the exclusion decision had been confirmed—when the excluded person may attend the school or schools; and

- (b) within 7 days after telling the excluded person about the chief executive's decision, give the person notice of the chief executive's decision and the reasons for the chief executive's decision.
- (4) If the exclusion decision was made under section 302(3) or 309(5) 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 exclusion decision; or
  - (b) a person in a less senior office than the person who made the exclusion decision.
- (5) In this section—

*relevant principal* means the principal of the State school at which the excluded person was enrolled immediately before the exclusion started.

## **Division 6                      Periodic review of certain decisions to exclude permanently**

### **314      Periodic review of decision to exclude permanently on ground mentioned in s 289 or 298—person under 17 years**

- (1) This section applies to—
- (a) a person under 17 years who is excluded permanently from a State school at which the person was enrolled immediately before the exclusion, or certain State schools, on a ground mentioned in section 289(1); or
  - (b) a person under 17 years who is excluded permanently from a State school at which the person was enrolled immediately before the exclusion on the ground mentioned in section 289(2); or
  - (c) a person under 17 years who is excluded permanently from a State school at which the person was enrolled

immediately before the exclusion, certain State schools or all State schools on a ground mentioned in section 298.

- (2) As soon as practicable after each anniversary of the exclusion, the chief executive must send to the person at the person's last known address a notice stating—
  - (a) that the person 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 30 school days after the notice is given, by which the submission must be made.
- (3) However, subsection (2) does not apply if the person gives to the chief executive a notice stating that the person does not wish to receive a notice under subsection (2) in relation to the exclusion.
- (4) At any time before the time expires for making a submission under subsection (5), the chief executive may extend the time for making a submission.
- (5) If the person receives a notice under subsection (2), the person may make a written submission, in the way stated in the notice, within the time stated in the notice or the later time allowed under subsection (4).
- (6) The chief executive must, within 40 school days after any submission is made under subsection (5), consider the submission and—
  - (a) decide whether to revoke the exclusion; and
  - (b) give notice of the decision and the reasons for the decision to—
    - (i) the person excluded; and
    - (ii) the principal of the State school at which the person was enrolled immediately before the exclusion started; and

- (iii) if the person was excluded on the ground mentioned in section 298(b)—the principal’s supervisor.
- (7) The chief executive must revoke the exclusion to the extent it applies to a State school if the chief executive is reasonably satisfied—
- (a) if the person was excluded on a ground mentioned in section 289(1)—the disobedience, misconduct or other conduct is unlikely to recur if the student were allowed to attend the school; or
  - (b) if the person was excluded on the ground mentioned in section 289(2)—the relevant behaviour is unlikely to recur; or
  - (c) if the person was excluded on the ground mentioned in section 298(a)—the ground no longer applies; or
  - (d) if the person was excluded on the ground mentioned in section 298(b)—the gross misbehaviour is unlikely to recur if the student were allowed to attend the school.
- (8) Otherwise, the chief executive must not revoke the exclusion.
- (9) 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 State school.

**315 Periodic review of decision to exclude permanently on ground mentioned in s 289 or 298—person aged from 17 to 24 years**

- (1) This section applies to—
- (a) a person aged from 17 to 24 years who is excluded permanently from a State school at which the person was enrolled immediately before the exclusion, or certain State schools, on a ground mentioned in section 289(1); or
  - (b) a person aged from 17 to 24 years who is excluded permanently from a State school at which the person

- was enrolled immediately before the exclusion on the ground mentioned in section 289(2); or
- (c) a person aged from 17 to 24 years who is excluded permanently from a State school at which the person was enrolled immediately before the exclusion, certain State schools or all State schools on a ground mentioned in section 298.
- (2) Within 1 month before each anniversary of the exclusion or the later time allowed under subsection (3), the person may make a written submission to the chief executive about whether the exclusion should be revoked.
- (3) During the period of 1 month before the anniversary of the exclusion, the chief executive may extend the time for making a submission under subsection (2).
- (4) The chief executive must, within 40 school days after any submission is made under subsection (2), consider the submission and—
- (a) decide whether to revoke the exclusion; and
- (b) give notice of the decision and the reasons for the decision to—
- (i) the person; and
- (ii) the principal of the State school at which the person was enrolled immediately before the exclusion started; and
- (iii) if the person was excluded on the ground mentioned in section 298(b)—the principal's supervisor.
- (5) The chief executive must revoke the exclusion to the extent it applies to a State school if the chief executive is reasonably satisfied—
- (a) if the person was excluded on a ground mentioned in section 289(1)—the disobedience, misconduct or other conduct is unlikely to recur if the student were allowed to attend the school; or
- (b) if the person was excluded on the ground mentioned in section 289(2)—the relevant behaviour is unlikely to recur; or

- (c) if the person was excluded on the ground mentioned in section 298(a)—the ground no longer applies; or
  - (d) if the person was excluded on the ground mentioned in section 298(b)—the gross misbehaviour is unlikely to recur if the student were allowed to attend the school.
- (6) Otherwise, the chief executive must not revoke the exclusion.
- (7) 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 State school.

## **Division 7                      Cancellation of enrolment of students above compulsory school age**

### **316      Ground for cancelling enrolment of student more than compulsory school age**

- (1) The enrolment at a State school of a student who is more than compulsory school age may be cancelled under this division on the ground that the student's behaviour amounts to a refusal to participate in the educational program provided at the school.
- (2) The enrolment of a student who is of compulsory school age may not be cancelled under this division.

### **317      Show cause notice**

- (1) Subsection (2) applies if a State school's principal is reasonably satisfied the ground exists to cancel the enrolment at the school of a student who is more than compulsory school age.
- (2) The principal must give the student a notice (a *show cause notice*) stating the following—

- (a) the action (the *proposed action*) the principal proposes taking under this division;
  - (b) the grounds for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) an invitation to the student to show within a stated period (the *show cause period*) why the proposed action should not be taken.
- (3) The show cause period must be a period ending at least 5 school days after the show cause notice is given to the student.
- (4) If the student is a child, as soon as practicable after the giving of the show cause notice, the principal must take reasonable steps to meet with a parent of the student to discuss the student's behaviour that led to the giving of the show cause notice.
- (5) Subsection (4) does not apply if the principal is satisfied it would be inappropriate in the circumstances to meet with a parent of the student to discuss the student's behaviour that led to the giving of the show cause notice.

*Example—*

It may be inappropriate to meet with a parent of the student to discuss the student's behaviour that led to the giving of the show cause notice if the student is living independently of his or her parents.

- (6) If subsection (5) applies—
- (a) the principal must take reasonable steps to meet with the student to discuss the student's behaviour that led to the giving of the show cause notice; and
  - (b) the student may be accompanied by an adult during the meeting.

### **318 Representations about show cause notice**

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

**319 Ending show cause process without further action**

If, after considering any accepted representations for the show cause notice, the principal no longer believes the ground exists to cancel the enrolment, the principal—

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

**320 Cancellation of student's enrolment**

- (1) This section applies if, after considering any accepted representations for the show cause notice, the principal—
  - (a) still believes the ground exists to cancel the enrolment; and
  - (b) believes cancellation of the enrolment is warranted.
- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The principal may cancel the enrolment of the student (the *person under the cancellation*) at the school.
- (4) The principal must give the person under the cancellation a notice stating—
  - (a) the person's enrolment at the school is cancelled and the reason for the cancellation; and
  - (b) an application for the enrolment of the person at the school may not be made for a stated period of not more than 12 months after the giving of the notice; 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.
- (5) The principal must also give a copy of the notice to the principal's supervisor.

- (6) If the person under the cancellation receives a notice under subsection (4), an application for the enrolment of the person at the school may not be made during the period stated in the notice under subsection (4)(b).

### **321 Submission 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.

### **322 Dealing with submission against cancellation of enrolment**

- (1) If a submission is made to the principal's supervisor, the supervisor must immediately consider the decision and the submission and—
- (a) confirm the decision; or
  - (b) amend the decision; or
  - (c) set aside the decision and make a new decision in substitution of the decision to cancel the enrolment.
- (2) After the supervisor has decided to confirm, amend or set aside the decision, the supervisor must—
- (a) as soon as practicable tell the person under the cancellation and the principal—
    - (i) about the supervisor's decision; and
    - (ii) if the supervisor's decision allows for an application for enrolment of the person at the school to be made earlier than if the principal's decision had been confirmed—when the application for enrolment may be made; and
  - (b) within 7 days after telling the person about the decision—give notice to the person, and the principal, about the decision and the reasons for the decision.



## **Division 8                      Behaviour improvement conditions**

### **323      Definitions for div 8**

In this division—

*appropriately qualified*, for a person conducting a behaviour management program, means having the qualifications, experience, skills or knowledge appropriate to conduct the program.

*behaviour improvement condition*, for the challenging behaviour of a State school student, means a condition requiring the student to undertake a behaviour management program, arranged by the school's principal, reasonably appropriate to the challenging behaviour.

*behaviour management program*, for the challenging behaviour of a State school student, means a program conducted by an appropriately qualified person that is designed to help the student not to re-engage in the challenging behaviour.

*challenging behaviour* see section 324(1).

### **324      Imposition of behaviour improvement condition by principal**

- (1) Subsection (2) applies if a State school's principal is reasonably satisfied a student enrolled at the school has engaged in behaviour (*challenging behaviour*) that is the basis for a ground for exclusion of the student from the school or certain State schools mentioned in section 289(1).
- (2) The principal may decide that the student's continued attendance at the school is subject to the student complying with a behaviour improvement condition for the challenging behaviour.
- (3) If, under subsection (2), a State school's principal decides that a student's continued attendance at the school is subject to the student complying with a behaviour improvement condition for the student's challenging behaviour, the principal must give the student a notice stating—

- (a) the student's continued attendance at the school is subject to the student complying with a behaviour improvement condition for the challenging behaviour; and
  - (b) the details of the behaviour improvement condition and the grounds for the imposition of the behaviour improvement condition; and
  - (c) the facts and circumstances forming the basis for the grounds; and
  - (d) the stated period of not more than 3 months, after the imposition of the behaviour improvement condition, during which the student must comply with the behaviour improvement condition; and
  - (e) the student may apply to the principal's supervisor, within 5 school days after the notice is given to the student, for a review of the decision; and
  - (f) the title, name and address of the supervisor; and
  - (g) the way in which the application may be made.
- (4) If the student is a child, as soon as practicable after giving the notice to the student, the principal must take reasonable steps to meet with a parent of the student to discuss the student's behaviour that led to the giving of the notice.
- (5) Subsection (4) does not apply if the principal is satisfied it would be inappropriate in the circumstances to meet with a parent of the student to discuss the student's behaviour that led to the giving of the notice.

*Example—*

It may be inappropriate to meet with a parent of the student to discuss the student's behaviour that led to the giving of the notice if the student is living independently of his or her parents.

- (6) If subsection (5) applies—
- (a) the principal must take reasonable steps to meet with the student to discuss the student's behaviour that led to the giving of the notice; and
  - (b) the student may be accompanied by an adult during the meeting.

**325 Review of decision about imposition of behaviour improvement condition**

- (1) This section applies if a decision is made, under section 324, that a student's continued attendance at a State school is subject to the student complying with a behaviour improvement condition for the student's challenging behaviour.
- (2) The student may apply to the principal's supervisor for the principal who made the decision, within 5 school days after notice of the decision is given to the student under section 324, for a review of the decision.
- (3) The application must state fully the grounds for the submission and the facts relied on.
- (4) After reviewing the behaviour improvement condition, the supervisor must decide—
  - (a) to confirm the behaviour improvement condition; or
  - (b) to remove the behaviour improvement condition; or
  - (c) to change the behaviour improvement condition.
- (5) The behaviour improvement condition may only be confirmed or changed for the reasons the behaviour improvement condition was initially imposed.
- (6) The supervisor must as soon as practicable give a notice to the student, and the principal, about the supervisor's decision on the application and the reasons for the decision.
- (7) If the supervisor fails to decide the application within 7 days after its receipt, the failure is taken to be a decision by the supervisor to remove the behaviour improvement condition.

**326 Removal of behaviour improvement condition**

- (1) This section applies if—
  - (a) a student's continued attendance at a State school is subject to the student complying with a behaviour improvement condition, for the student's challenging behaviour, imposed or agreed to under this division; and
  - (b) the school's principal reasonably believes the behaviour improvement condition is no longer necessary.

- (2) The principal must decide to remove the behaviour improvement condition.
- (3) The principal must as soon as practicable give a notice to the student about the principal's decision and the reasons for the decision.

### **327 Change of behaviour improvement condition**

- (1) This section applies if—
  - (a) a student's continued attendance at a State school is subject to the student complying with a behaviour improvement condition, for the student's challenging behaviour, imposed or agreed to under this division; and
  - (b) the school's principal reasonably believes the behaviour improvement condition is no longer appropriate for the challenging behaviour.
- (2) The principal may change the behaviour improvement condition in a way agreed to in writing—
  - (a) if the student is a child—by a parent of the student; or
  - (b) if the student is an adult—by the student.
- (3) Subsection (2)(a) does not apply, and agreement must be by the student, if the principal is satisfied it would be inappropriate in the circumstances for agreement to be by a parent of the student.

*Example—*

It may be inappropriate for a parent of the student to agree if the student is living independently of his or her parents.

- (4) The behaviour improvement condition may only be changed for the reasons the behaviour improvement condition was initially imposed.

## **Division 9                      Other provisions**

### **328      Definitions for div 9**

In this division—

*parent*, of a child, includes a person standing in the place of a parent of the child on a temporary basis.

*student* includes—

- (a) an excluded person; or
- (b) a person whose enrolment at a State school has been cancelled under division 7.

### **329      No entitlement to enrolment at another State school during suspension**

A student suspended from a State school under this part is not entitled to be enrolled at another State school during the period of the suspension.

### **330      Copy of notices under this part to be given to parent**

- (1) If a person is required, under this part, to give a notice to a student and the student is a child, the person must as soon as practicable give a copy of the notice to a parent of the student.
- (2) For giving a copy of the notice to a parent of the student, the person may rely on the relevant State school's records about the student's parents and their current residential address.
- (3) Subsection (1) does not apply if the person is satisfied it would be inappropriate in the circumstances to give a copy of the notice to the parent.

*Example—*

It may be inappropriate to give the parent a copy of the notice if the student is living independently of his or her parents.

**331 Submissions, representations or applications about suspensions etc.**

- (1) This section applies if, under a provision of this part, a student or prospective student may make a submission, representations or an application in relation to a suspension, suspension and recommendation for exclusion, exclusion or cancellation, or a behaviour improvement condition under division 8, and the student or prospective student is a child.
- (2) A submission, representations or an application may also be made under the provision in relation to the student by a parent of the student or prospective student.

**332 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 confirm another decision—on the day the student is told about the decision; or
  - (b) otherwise—on the day the student is given notice of the decision or a later day stated in the notice.

**Part 5 Wilful disturbance and trespass at State educational institutions****333 Wilful disturbance**

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

Maximum penalty—20 penalty units.



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

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

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

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

### **336      Person may be required to state name and address**

- (1) If a State instructional institution's principal proposes to give a direction under section 337 or 339 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.



**Division 3****Directions about conduct or movement at premises of State instructional institutions****337 Direction about conduct or movement**

- (1) A State instructional 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.

### **338 Review of direction under s 337**

- (1) This section applies if a person is given a direction under section 337 by a State instructional 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) The application must be decided by—
  - (a) the principal's supervisor; or
  - (b) a person (the *nominated reviewer*) nominated by the principal's supervisor who holds an equal or more senior office in the department to that of the principal's supervisor.
- (5) After considering the grounds, the principal's supervisor or nominated reviewer must make a decision (the *review decision*) to—
  - (a) confirm the direction; or
  - (b) cancel the direction.
- (6) The principal's supervisor or nominated reviewer must immediately give the person and the institution's principal notice of the review decision.

- (7) If the application is decided by the nominated reviewer, the nominated reviewer must also immediately give the principal's supervisor notice of the review decision.
- (8) If the principal's supervisor or nominated reviewer does not give the person a notice under subsection (6) within 5 days after the application is made, the review decision is taken to be that the direction is cancelled.

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

### **339      Direction to leave and not re-enter**

- (1) A State instructional 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.

## **Division 5                      Prohibition from entering premises of State instructional institutions for up to 60 days**

### **340      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 instructional 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 397, 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.

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

### **341      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 instructional 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.

**342 Appeal to District Court**

An appeal lies to the District Court from a decision of a court under section 341, but only on a question of law.

**Part 7 Directions and orders about conduct or movement at, or entry to, premises of non-State schools****Division 1 Preliminary****343 Definitions for pt 7**

In this part—

*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.

**Division 2 Powers relating to name and address****344 Person may be required to state name and address**

- (1) If a non-State school's principal proposes to give a direction under section 346 or 348 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.

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

#### **345      Review body**

- (1) In this division, *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 347—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.

#### **346      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.

### **347 Review of direction under s 346**

- (1) This section applies if a person is given a direction under section 346 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 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.

## **Division 4                      Directions to leave and not re-enter premises of non-State schools for 24 hours**

### **348      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.

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

### **349      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 397, 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.

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

### **350      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.

### **351 Appeal to District Court**

An appeal lies to the District Court from a decision of a court under section 350, but only on a question of law.

## **Part 8 Prohibition from entering premises of all State instructional institutions and non-State schools for up to 1 year**

### **352 Prohibition from entering premises of all State instructional 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 instructional 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 instructional 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.

### **353 Prohibition from entering premises of all State instructional institutions**

- (1) The chief executive may apply to a court for an order prohibiting a person from entering the premises of all State instructional 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 instructional 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.

### **354 Appeal to District Court**

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

## **Part 9 Provisions relating to parts 6 to 8**

### **355 Non-application of pts 6 and 7 to particular persons**

Parts 6 and 7<sup>22</sup> do not apply to a person in relation to the

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<sup>22</sup> Parts 6 (Directions and orders about conduct or movement at, or entry to, premises of State instructional institutions) and 7 (Directions and orders about conduct or movement at, or entry to, premises of non-State schools)

exercise by the person of the person's powers under an Act at the premises of a State instructional institution or non-State school.

### **356 Notification of application or direction**

- (1) Subsection (2) applies if an application is made under section 341, 350, 352 or 353 in relation to a child.
- (2) The applicant must, as soon as practicable after making the application, give a parent of the child 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 340 or 349 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 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.

### **357 Noncompliance with court order**

- (1) A person who does not comply with an order of a court under section 341 or 350 commits an offence.  
Maximum penalty—40 penalty units.
- (2) A person who does not comply with an order of a court under section 352 or 353 commits an offence.  
Maximum penalty—40 penalty units or 1 year's imprisonment.

### **358 Annual report of department to include report on various matters**

- (1) In the department's annual report for a financial year, the chief executive must include details of—

- (a) the number of directions given during the financial year under each of sections 337, 339 and 340, including the number given to children; and
  - (b) the number of orders made during the financial year under each of sections 341, 352 and 353, including the number made in relation to children; and
  - (c) the number of applications made during the financial year under section 338, including the number made by children; and
  - (d) the number of directions confirmed during the financial year under section 338, including the number of the directions that had been given to children; and
  - (e) the number of directions cancelled during the financial year under section 338, including the number of the directions that had been given to children.<sup>23</sup>
- (2) Also, in the annual report, the chief executive must include the information obtained by the Minister under section 359 for the financial year.

### **359 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 each of sections 346, 348 and 349, including the number given to children;
- (b) the number of orders, relating to the school, made during the financial year under section 350, including the number made in relation to children;

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<sup>23</sup> Sections 337 (Direction about conduct or movement), 338 (Review of direction under s 337), 339 (Direction to leave and not re-enter), 340 (Prohibition from entering premises), 341 (Prohibition from entering premises), 352 (Prohibition from entering premises of all State instructional institutions and non-State schools) and 353 (Prohibition from entering premises of all State instructional institutions)

- (c) the number of applications, relating to the school, made during the financial year under section 347, including the number made by children;
- (d) the number of directions, relating to the school, confirmed during the financial year under section 347, including the number of the directions that had been given to children;
- (e) the number of directions, relating to the school, cancelled during the financial year under section 347, including the number of the directions that had been given to children.<sup>24</sup>

## **Part 10                      Dress code**

### **360      Development of dress code**

- (1) A State school's principal may develop a dress code for the school's students that is to apply when the students are attending, or representing, the school.
- (2) The dress code may provide for the following—
  - (a) standards of what is acceptable in relation to the clothing worn by the students, including headwear and footwear;
  - (b) standards of what is acceptable in relation to other aspects of the personal presentation of the students.
- (3) In developing the dress code, the principal must consult with the following persons—
  - (a) the parents of children enrolled at the school;
  - (b) the school's staff and students.

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<sup>24</sup> Sections 346 (Direction about conduct or movement), 347 (Review of direction under s 346), 348 (Direction to leave and not re-enter), 349 (Prohibition from entering premises) and 350 (Prohibition from entering premises)



- (4) Also, in developing the dress code, the principal must ensure the dress code is consistent with any guidelines made under section 361.

### **361 Guidelines for dress code**

- (1) The chief executive may make guidelines about dress codes for State schools.
- (2) Issues that may be addressed by a guideline include the following—
- (a) the scope of operation of a dress code;
  - (b) the extent of consultation to be undertaken by a State school's principal when developing a dress code;
  - (c) the issues to be considered in the development of a dress code, including, for example—
    - (i) the availability and affordability of items of clothing; and
    - (ii) the functionality of items of clothing; and
    - (iii) health and safety issues; and
    - (iv) anti-discrimination issues; and
    - (v) the process to be followed in dealing with the special circumstances of particular students;
  - (d) the consistency of a dress code with other Acts or laws;
  - (e) the consistency of a dress code with government policies;
  - (f) the ongoing monitoring of the operation of a dress code.
- (3) A guideline may be amended or replaced by a later guideline made under this section.
- (4) A guideline must be made available to each principal of a State school.

### **362 Noncompliance with dress code**

- (1) If a student of a State school does not comply with a dress code for the school's students, developed under section 360,

the school's principal may only impose one of the following sanctions—

- (a) detention of the student for a period mentioned in section 283(3);
  - (b) prevent the student from attending, or participating in, any activity for which the student would have been representing the school;
  - (c) prevent the student from attending, or participating in, any school activity that, in the reasonable opinion of the school's principal, is not part of the essential educational program of the school.
- (2) However, a sanction imposed under subsection (1)(b) or (c) may only be imposed on a once-only basis for each noncompliance with the dress code.
- (3) Part 4, divisions 1 to 3 and 7<sup>25</sup> do not apply to the noncompliance with the dress code.
- (4) For subsection (1)(a), section 283(4) and (5) apply and for that purpose a reference in section 283(4) to 'subsection (2)' is taken to be a reference to subsection (1)(a) of this section.

### **363 Dress code to be available for inspection**

- (1) A State school's principal must keep an up-to-date copy of a dress code for the school's students developed under section 360 available for inspection, free of charge, by interested persons at the school's administration office.
- (2) The plan may be made available in written or electronic form.

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25 Part 4 (Suspension, exclusion and cancellation of enrolment of, and behaviour improvement conditions for, State school students), divisions 1 (Suspension of students), 2 (Exclusion of students by principals' supervisors), 3 (Exclusion of students by chief executive) and 7 (Cancellation of enrolment of students above compulsory school age)

## Part 11 Reporting of sexual abuse

### 364 Definition for pt 11

In this part—

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

### 365 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 State 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 a person nominated by the chief executive for the purpose (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.

### **366 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.

## Chapter 13 Schools in receipt of subsidy

### Part 1 Preliminary

#### 367 Definitions for ch 13

In this chapter—

**allowance** includes a grant, subsidy or supplement.

**approved policy** means a policy approved by the Minister under section 369.

## Part 2 Scholarships and allowances

### 368 Provision of scholarships and payment of allowances

- (1) The Minister may, under an approved policy—
  - (a) provide scholarships to be competed for by prospective students, or students, of a school in receipt of subsidy; or
  - (b) pay an allowance to the governing body of a non-State school in receipt of subsidy for its use in the operation of the school; or
  - (c) pay an allowance to a person to offset the person's costs in attending a State school or non-State school; or
  - (d) pay an allowance to a person to offset the person's costs in receiving home education under chapter 9, part 5; or
  - (e) pay an allowance to a person operating a student hostel to defray the costs of operating the hostel.
- (2) The Minister may pay an allowance under subsection (1)(b) on reasonable conditions the Minister considers appropriate.
- (3) In this section—

*student hostel* means a hostel for the accommodation of students attending a school in receipt of subsidy.

### 369 Minister's policy

- (1) The Minister may approve a policy about the following—
  - (a) the criteria to be satisfied for the provision of a scholarship, or payment of an allowance, under section 368;
  - (b) the basis for calculating the amount of the scholarship or allowance;
  - (c) how a person may apply to the Minister for the scholarship or allowance.
- (2) The chief executive must keep a copy of a policy approved under subsection (1) available for inspection and permit a person—

- (a) to inspect the policy without fee; and
  - (b) to take extracts from the policy without fee.
- (3) For subsection (2)—
- (a) a copy of the policy—
    - (i) must be kept at the head office of the department; and
    - (ii) may be kept at any other place the chief executive considers appropriate; and
  - (b) the copy kept under paragraph (a) must be available for inspection during office hours on business days for the office or place.
- (4) Also, the chief executive must keep a copy of a policy approved under subsection (1) available for supply to a person and permit a person to obtain a copy of the policy, or a part of the policy, without fee.
- (5) In addition, the chief executive must keep a copy of a policy approved under subsection (1) posted on the department's web site on the internet.

*Editor's note—*

The department's web site address on the internet is <[www.education.qld.gov.au](http://www.education.qld.gov.au)>.

## **Part 3                      Financial data**

### **370      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 368(1)(b).
- (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 368(1)(b).
- (6) Subsection (2) does not apply if the school has been in operation for less than the whole of the relevant year.

### **371 Further information or documents relating to financial data**

- (1) This section applies to the governing body of a non-State school that has given financial data for the school to the Minister under section 370.
- (2) The Minister may by 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.

### **372 False or misleading information or documents**

- (1) A school's governing body must not under section 370 or 371 give information to the Minister the governing body knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

- (2) A non-State school's governing body must not under section 370 or 371 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.

### **373 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 part, 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 part; 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—

***protected information*** means information disclosed to, or obtained by, a person to whom this section applies under section 370 or 371.

## Part 4                      Giving of allowance acquittal details

### 374      Allowance acquittal details

- (1) This section applies to a non-State school for which an allowance is being paid under section 368(1)(b).
- (2) Within 6 months after the end of each year, the school's governing body must, in the approved form, give the board allowance acquittal details for the school for the 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 allowance.
- (5) In this section—

*allowance acquittal details*, for a non-State school for a year, means details of how the allowance has been expended, during the year, by the school's governing body.

### 375      Annual report

As soon as practicable after the end of each year, the board must give the Minister a written report about the details received by the board under section 374 relating to the year.

### 376      Show cause notice

- (1) Subsection (2) applies if the board believes the ground mentioned in section 374(4) exists for stopping payment of the allowance.
- (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 allowance 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.

### **377 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).

### **378 Ending show cause process without further action**

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

### **379 Recommendation by board**

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

- (4) The board must, as soon as practicable after making the recommendation, give the recommendation to the Minister.
- (5) In this section—  
*recommendation* includes reasons for the recommendation.

### **380 Decision of Minister**

- (1) This section applies if the Minister receives a recommendation under section 379(4).
- (2) The Minister must decide whether payment of the allowance should be stopped.
- (3) In making the decision, the Minister must have regard to, but is not bound by, the recommendation.
- (4) If the Minister decides that payment of the allowance be stopped, the Minister must as soon as practicable give the board and governing body notice of the decision and reasons for the decision.
- (5) If the Minister decides that payment of the allowance not be stopped, the Minister must as soon as practicable give the board and governing body notice of the decision.
- (6) In this section—  
*recommendation* includes reasons for the recommendation.

### **381 Minister's discretion not limited**

- (1) The ground mentioned in section 374(4) for stopping payment of the allowance does not limit the Minister's discretion to stop payment for another reason.
- (2) Also, if the Minister decides under section 380 that payment of the allowance not be stopped, the decision does not limit the Minister's discretion to stop payment at a later time.

## Part 5 Other provisions

### 382 False or misleading statement

- (1) A person must not, for the purpose of obtaining a scholarship or allowance mentioned in section 368(1), give information to the Minister or chief executive the person knows is false or misleading in a material particular.

Maximum penalty—5 penalty units.

- (2) A person must not, for the purpose of obtaining a scholarship or allowance mentioned in section 368(1), give the Minister or chief executive a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—5 penalty units.

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

## Chapter 14 Transfer notes

### Part 1 Preliminary

#### 383 Definition for ch 14

In this chapter—

*relevant person*, for a student of a State school or non-State school, means—

- (a) if the student is a child—a parent of the student; or
- (b) if the student is an adult—the student.

**384 Meaning of *transfer note***

- (1) A *transfer note*, for a former student or continuing student of a State school or non-State school, means a document in the approved form containing the information, including personal information, about the former student or continuing student of the type prescribed under a regulation.
- (2) Without limiting subsection (1), a *transfer note*, for a former student or continuing student of a State school or non-State school, may include information about—
  - (a) the results of the assessment of the former student or continuing student in school studies; and
  - (b) behavioural issues relating to the former student or continuing student identified during the former student's, or continuing student's, attendance at a State school or non-State school.
- (3) Information in a transfer note must be factual, succinct and objective.

**385 Purpose of giving transfer note**

The purpose of giving the principal of a State school or non-State school a transfer note about a former student or continuing student of another State school or non-State school under this chapter is to provide information to the principal that will help the principal—

- (a) ensure continuity of the student's educational program; and
- (b) meet the principal's duty of care obligations in relation to the student and the school community.

**Part 2 Request for transfer notes****386 Cessation of enrolment**

- (1) Subject to subsection (3), subsection (2) applies if—

- (a) the enrolment of a student (the *former student*) of a State school or non-State school is ceased at the request of the relevant person for the former student; and
  - (b) the relevant person for the former student, at the time of the request to cease enrolment, asks the school's principal to give the relevant person for the former student a transfer note for the former student.
- (2) The school's principal must, as soon as practicable after cessation of the enrolment, prepare a transfer note for the former student and give the relevant person for the former student—
- (a) the transfer note; and
  - (b) copies of the documents relating to the former student mentioned in the transfer note.
- (3) However, subsection (4) applies if—
- (a) the relevant person for the former student is a parent of the student; and
  - (b) the principal is reasonably satisfied it would be inappropriate to allow the parent to request that the enrolment cease or receive the transfer note and copies of the documents; and

*Example—*

It may be inappropriate for the parent to request that the enrolment cease or receive the transfer note and copies of the documents if the former student is living independently of his or her parents.

- (c) the enrolment is ceased at the request of the former student; and
  - (d) the former student, at the time of the request to cease enrolment, asks the school's principal to give the former student a transfer note for the former student.
- (4) The school's principal must, as soon as practicable after cessation of the enrolment, prepare a transfer note for the former student and give to the former student—
- (a) the transfer note; and

- (b) copies of the documents relating to the former student mentioned in the transfer note.

### **387 Application for enrolment**

- (1) Subsection (3) applies if—
  - (a) the enrolment of a student (the *former student*) at a State school or non-State school (the *previous school*) has ceased and the former student has not been enrolled at a State school or non-State school since the cessation; and
  - (b) an application for the enrolment of the former student at a State school or non-State school (the *new school*) has been made.
- (2) Subsection (3) also applies if—
  - (a) the enrolment of a student (the *continuing student*) at a State school or non-State school (also the *previous school*) is continuing; and
  - (b) an application for the enrolment of the continuing student at a State school or non-State school (also the *new school*) has been made.
- (3) The new school's principal may give the previous school's principal a notice (the *first notice*), asking the previous school's principal to give the new school's principal a transfer note for the former student or continuing student.
- (4) Within 10 school days after being given the first notice, the previous school's principal must prepare a transfer note for the former student or continuing student and give to the new school's principal—
  - (a) the transfer note; and
  - (b) copies of the documents relating to the former student or continuing student mentioned in the transfer note.
- (5) The new school's principal must, at the time of giving the first notice, also notify the relevant person for the former student or continuing student that the first notice has been given.
- (6) However, if the relevant person for the former student or continuing student is a parent of the former student or



continuing student, subsection (5) does not apply if the new school's principal is reasonably satisfied it would be inappropriate in the circumstances to notify the parent that the first notice has been given.

*Example—*

It may be inappropriate, in certain circumstances, to notify a parent of the former student or continuing student that the first notice has been given if the former student or continuing student is living independently of his or her parents.

- (7) If subsection (6) applies, the new school's principal must notify the former student or continuing student that the first notice has been given.
- (8) If requested by the relevant person for the former student or continuing student, the new school's principal must, as soon as practicable after receiving the transfer note and copies of the documents mentioned in subsection (4)(b), give the relevant person for the student—
  - (a) a copy of the transfer note; and
  - (b) copies of the documents.
- (9) However, if the relevant person for the former student or continuing student is a parent of the former student or continuing student, subsection (8) does not apply if the new school's principal is reasonably satisfied it would be inappropriate in the circumstances to allow the parent to receive a copy of the transfer note and copies of the documents.

*Example—*

It may be inappropriate, in certain circumstances, to allow a parent of the former student or continuing student to receive a copy of the transfer note and copies of the documents if the former student or continuing student is living independently of his or her parents.

- (10) If subsection (9) applies, the new school's principal must, as soon as practicable after receiving the transfer note and copies of the documents mentioned in subsection (4)(b), give the former student or continuing student—
  - (a) a copy of the transfer note; and
  - (b) copies of the documents.

**388 Transfer of records between State schools**

- (1) This section applies if the enrolment of a student (the *former student*) at a State school (the *previous school*) has ceased and the former student is later enrolled at another State school (the *new school*).
- (2) This part does not prevent the former school's principal transferring records, in the possession of the former school's principal, relating to the former student to the new school's principal.

**Part 3 Protection from liability****389 Protection from liability**

- (1) A State school's, or non-State school's, principal is not civilly liable for an act done, or omission made, honestly and without negligence under this chapter.
- (2) If subsection (1) prevents a civil liability attaching to a State school's, or non-State school's, principal, the liability attaches instead—
  - (a) for a State school's principal—to the State; or
  - (b) for a non-State school's principal—the school's governing body.

## Chapter 15      Reviews and appeals

### Part 1                      Reviews of decisions by chief executive

#### 390      Who may apply for review

A person who is given, or is entitled to be given, an information notice for a decision (the *original decision*) and who is dissatisfied with the decision may apply to the chief executive for a review of the decision.

#### 391      Application for review

- (1) The application must be made—
  - (a) if the person is given an information notice about the decision—within 30 school days after the person is given the information notice; or
  - (b) otherwise—within 30 school days after the person otherwise becomes aware of the decision.
- (2) The chief executive may extend the time for making the application.
- (3) The application must be in the approved form and supported by enough information to enable the chief executive to decide the application.

#### 392      Review decision

- (1) Unless the chief executive made the original decision personally, the chief executive must ensure the application is not dealt with by—
  - (a) the person who made the original decision; or
  - (b) a person in a less senior office in the department than the person who made the original decision.

- (2) Within 40 school days after the making of the application, the chief executive must review the original decision and make a decision (the *review decision*)—
  - (a) confirming the original decision; or
  - (b) amending the original decision; or
  - (c) substituting another decision for the original decision.
- (3) The chief executive must make the review decision on the material that led to the original decision and any other material the chief executive considers relevant.
- (4) The chief executive must, as soon as practicable after making the review decision, give the applicant notice of the review decision.
- (5) If the review decision is not the decision sought by the applicant, the notice must state—
  - (a) the review decision; and
  - (b) the reasons for the review decision; and
  - (c) that, within 28 days after receiving the notice, the applicant may appeal against the review decision to a Magistrates Court.

## **Part 2**                      **Appeal against review decisions**

### **393**      **Application of pt 2**

This part applies if the chief executive makes a review decision and the applicant is dissatisfied with the review decision.

### **394**      **Appeal to Magistrates Court**

- (1) The applicant may appeal against the review decision to a Magistrates Court.
- (2) The appeal must be started—

- (a) if the applicant receives notice of the review decision under section 392(5)—within 28 days after the notice is received; or
  - (b) otherwise—within 28 days after the applicant becomes aware of the review decision.
- (3) However, the court may extend the time for making the appeal.

### **395 Conduct of appeal**

- (1) The appeal is started by filing a notice of appeal in the court.
- (2) The appeal is by way of rehearing, unaffected by the review decision, on the material before the chief executive and any further evidence allowed by the court.
- (3) The court may—
  - (a) allow the appeal and make any order it considers appropriate; or
  - (b) dismiss the appeal.

## **Part 3 Appeals against directions under section 340 or 349**

### **396 Definition for pt 3**

In this part—

*court* means—

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

**397 Who may appeal**

A person (the *appellant*) who is given a direction under section 340 or 349<sup>26</sup> (the *original direction*) may appeal against the original direction to a court.<sup>27</sup>

**398 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.

**399 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
  - (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>28</sup> applies if the appeal is heard by the Childrens Court.
- (3) The appeal is by way of rehearing 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.

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26 Section 340 (Prohibition from entering premises) or 349 (Prohibition from entering premises)

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

28 *Childrens Court Act 1992*, section 20 (Who may be present at a proceeding)



- (b) a student aggrieved by the chief executive's decision under section 72, 302(4) or 309(6); or
- (c) 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 154.<sup>29</sup>

*court* means a Magistrates Court.

## **402 Appeal**

- (1) An aggrieved person may appeal to a court against the decision about which the person is aggrieved.
- (2) The appeal must be started—
  - (a) if the aggrieved person receives notice of the decision under this Act—within 28 days after the notice is received; or
  - (b) otherwise—within 28 days after the aggrieved person becomes aware of the decision.
- (3) However, the court may extend the time for making the appeal.
- (4) The appeal must be started by filing a notice of appeal in the court.
- (5) The appeal is by way of rehearing on the material that was before the person whose decision is appealed against and any further evidence allowed by the court.
- (6) The court may—
  - (a) allow the appeal and make any order it considers appropriate; or
  - (b) dismiss the appeal.

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<sup>29</sup> Section 69 (Dealing with submissions against principal's decision), 72 (Chief executive must consider and decide application for further semesters), 154 (Dealing with submissions against removal), 302 (Exclusion of student by chief executive) or 309 (Exclusion)



## Chapter 16 Legal proceedings

### Part 1 Evidence

#### 403 Application of pt 1

This part applies to a proceeding under this Act.

#### 404 Definition for pt 1

In this part—

*authorised officer* means a person who is an authorised officer under section 178(6) or 241(6).

#### 405 Appointments and authority

It is not necessary to prove the appointment of the chief executive or an authorised officer, or the authority of the chief executive or an authorised officer to do anything under this Act, unless a party to a proceeding under this Act, by reasonable notice, requires proof of the appointment or authority.

#### 406 Signatures

A signature purporting to be the signature of the chief executive or an authorised officer is evidence of the signature it purports to be.

#### 407 Other evidentiary aids

- (1) A certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter—
  - (a) a stated document is—
    - (i) an approval, decision or requirement made under this Act; or
    - (ii) an exemption issued under chapter 9, part 3; or

- (iii) an exemption issued under chapter 10, part 5; or
    - (iv) a notice given under this Act;
  - (b) a stated document is a copy of a document mentioned in paragraph (a);
  - (c) 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;
  - (d) on a stated day, or during a stated period, an exemption issued under chapter 9, part 3 for a stated child was, or was not, in force;
  - (e) on a stated day, or during a stated period, an exemption issued under chapter 10, part 5 for a stated young person was, or was not, in force;
  - (f) on a stated day, a stated person was given a stated notice under this Act;
  - (g) on a stated day, a stated requirement was made of a stated person.
- (2) In a proceeding for an offence against section 176(1)<sup>30</sup>—
- (a) a certificate purporting to be signed by a State school's, or non-State school's, principal—
    - (i) that a stated child is, or is not, enrolled at the school; or
    - (ii) stating the details of attendance of a stated child at the school;is evidence of the matter; and
  - (b) 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; and
  - (c) a statement in a complaint that a child was of compulsory school age at the time of the offence is evidence of the matter.

## Part 2                      Offence proceedings

### 408      Summary proceedings for offences

- (1) A proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.
- (2) The proceeding must start within the later of the following periods to end—
  - (a) 1 year after the commission of the offence;
  - (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

### 409      Statements at start of proceedings

- (1) In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of when the matter came to the complainant's knowledge.
- (2) In a 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'.

### 410      Evidence of chief executive's consent

A certificate, purporting to be signed by the chief executive, that the chief executive consents to the bringing of proceedings for an offence against section 239(1)<sup>31</sup> is evidence of the consent.

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31 Section 239 (Obligation to ensure participation)

## Chapter 17 Minister's powers

### 411 Power of Minister to be member of entity

- (1) The Minister, or a person authorised by the Minister for this section, may by invitation from or agreement with an entity—
  - (a) be a member of the entity if—
    - (i) its objects include education, research or any other matter associated with the process of learning or teaching (the *relevant objects*); or
    - (ii) in the opinion of the Minister, it is engaged in the promotion of education; and
  - (b) enter into an agreement with an entity whose objects include the relevant objects, in relation to the objects.
- (2) If the Minister is a member of an entity under subsection (1)(a), the Minister may be a member of the governing body of the entity.
- (3) The Minister may incur any expenses, or pay any contributions, that membership of an entity under subsection (1) requires.

### 412 Establishment of advisory committees

The Minister may establish advisory committees to advise the Minister on any aspect of education.

### 413 Forming or establishing entities for furthering education

- (1) The Minister may form or establish, or participate in the forming or establishing of, an entity for any purpose that may directly or indirectly further education in any way.
- (2) An entity formed or established under subsection (1) is a statutory body under 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 an

entity formed or established under subsection (1) are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

## Chapter 18 International educational institutions

### 414 Definitions for ch 18

In this chapter—

***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 of that Act, includes a conviction of the person to which any of the sections applies; and
- (b) despite section 5<sup>32</sup> of that Act, includes a charge made against the person for an offence.

***international educational institution*** means an institution, facility, school or college in Queensland that offers, or proposes to offer, 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.

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32 *Criminal Law (Rehabilitation of Offenders) Act 1986*, sections 5 (Matter excluded from criminal history), 6 (Non-disclosure of convictions upon expiration of rehabilitation period) and 9 (Duty to disregard certain convictions)

**415 Limitation on operation of international educational institution**

A person must not operate an international educational institution in Queensland unless the person has the Governor in Council's approval under this chapter.

Maximum penalty—100 penalty units.

**416 Recommendation by Minister**

- (1) Before recommending that the Governor in Council give an approval to a person to operate an international educational institution in Queensland (an *international institution approval*), the Minister must have regard to the financial viability of the institution.
- (2) Subsection (1) does not limit the matters the Minister may have regard to in deciding whether to make a recommendation under subsection (1).

**417 Conditions of approval**

- (1) An international institution approval may contain conditions that are relevant and reasonable.
- (2) Without limiting subsection (1), the following conditions apply to an international institution approval—
  - (a) a person who teaches at the institution to which the approval relates 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 reasonably considers the person may pose a risk to the safety of children attending 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.

- (3) The conditions of an international institution approval, other than the conditions mentioned in subsection (2), must be stated on the approval.
- (4) A person who is approved, under an international institution approval, to operate an international educational institution in Queensland must comply with the conditions of the approval.

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

#### **418 Criminal history reports**

- (1) For section 417(2)(b), the Minister may ask the commissioner of the police service for a written report about the criminal history of a person who will be teaching, or teaches, at an international educational institution.
- (2) The commissioner of the police service must comply with the request.
- (3) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.

#### **419 Payment of allowances**

A regulation may provide for the payment of allowances to persons enrolled at an international educational institution that a person is approved to operate under an international institution approval.

## Chapter 19 Miscellaneous

### 420 Special education

- (1) The Minister may provide, or assist in the provision of, special education to a person with a disability who is enrolled at a non-State school.
- (2) Also, subject to the agreement of a parent of a person with a disability who is below compulsory school age, the Minister may provide, or assist in the provision of, special education to the person with a disability.

### 421 Transportation assistance for certain students

- (1) The Minister may give assistance to an eligible student relating to his or her transportation to or from a school in receipt of subsidy.
- (2) The ways the Minister may give the assistance include the following—
  - (a) paying to the student, or a parent of the student, all or part of the expenses of the transportation;
  - (b) making payments to a provider of the transportation;
  - (c) helping to organise or coordinate the transportation.
- (3) In this section—

*eligible student* means a person who—

  - (a) is attending a school in receipt of subsidy; and
  - (b) has a disability that necessitates transport to or from the school by a means that takes account of the disability.

### 422 Grants to 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.

**423 Annual reporting by State school's principal or non-State school's governing body**

- (1) The Minister may approve a policy about the publication by a State school's principal, or non-State school's governing body, of an annual report containing—
  - (a) information relating to the school and its policies; and
  - (b) aggregate data about the student outcomes for all persons enrolled at the school in the previous year.
- (2) A State school's principal, or non-State school's governing body, must comply with a policy approved under subsection (1).
- (3) The chief executive must keep a copy of a policy approved under subsection (1) available for inspection and permit a person—
  - (a) to inspect the policy without fee; and
  - (b) to take extracts from the policy without fee.
- (4) For subsection (3)—
  - (a) a copy of the policy—
    - (i) must be kept at the head office of the department; and
    - (ii) may be kept at any other place the chief executive considers appropriate; and
  - (b) the copy kept under paragraph (a) must be available for inspection during office hours on business days for the office or place.
- (5) Also, the chief executive must keep a copy of a policy approved under subsection (1) available for supply to a person and permit a person to obtain a copy of the policy, or a part of the policy, without fee.
- (6) In addition, the chief executive must keep a copy of a policy approved under subsection (1) posted on the department's web site on the internet.

*Editor's note—*

The department's web site address on the internet is <[www.education.qld.gov.au](http://www.education.qld.gov.au)>.

#### **424 Parent and teacher discussions**

- (1) A State school's, or non-State school's, principal must ensure that a parent of each child enrolled at the school is given the opportunity, at least twice a year, to discuss the child's educational performance at the school with the child's teachers.
- (2) Subsection (1) does not apply if the principal is satisfied it would be inappropriate in the circumstances to give the parent the opportunity.

*Example—*

It may be inappropriate to give the parent the opportunity if the child is living independently of his or her parents.

#### **425 Student reports**

- (1) A State school's, or non-State school's, principal must ensure that a written report on the educational performance at the school of a person enrolled at the school is given at least twice a year—
  - (a) if the person is a child—to a parent of the person; or
  - (b) if the person is an adult—to the person.
- (2) Subsection (1)(a) does not apply, and the report must be given to the person, if the principal is satisfied it would be inappropriate in the circumstances for a parent of the person to be given the report.

*Example—*

It may be inappropriate for a parent of the person to be given the report if the person is living independently of his or her parents.

#### **426 Confidentiality**

- (1) This section applies to a person—
  - (a) who is or has been—

- (i) the chief executive or a public service employee in the department; or
    - (ii) an employee of a State school; or
    - (iii) a minister, or an accredited representative, of a religious denomination or society mentioned in section 76(1); or
    - (iv) a member of an association; and
  - (b) who, in that capacity, has gained or has access to personal information about a student, prospective student or former student of a State school.
- (2) This section also applies to a person—
- (a) who is or has been an employee of a relevant non-State school; and
  - (b) who, in that capacity, has gained or has access to personal information about a former student or continuing student of the relevant non-State school contained in a transfer note for the former student or continuing student.
- (3) The person must not make a record of the information, use the information or disclose the information to anyone else, other than—
- (a) for a purpose of this Act; or
  - (b) with the consent of the person to whom the information relates, or if the person is a child unable to consent, with the consent of a parent of the child; or
  - (c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or
  - (d) as permitted or required by another Act; or
  - (e) with the written consent of the chief executive, who may give the consent if he or she is reasonably satisfied the recording, use or disclosure is—
    - (i) necessary to assist in averting a serious risk to the life, health or safety of a person, including the person to whom the information relates; or

(ii) in the public interest.

Maximum penalty—50 penalty units.

(4) In this section—

***disclose***, information, includes give access to the information.  
***employee***, of a State school or relevant non-State school, includes—

- (a) a person appointed to a position with the school; and
- (b) a person engaged by the chief executive, the State school's principal, or the relevant non-State school's governing body, under a contract for services; and
- (c) a volunteer who performs a task at the school.

***personal information*** means information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

***relevant non-State school*** means a non-State school, the governing body of which is not an organisation within the meaning of the *Privacy Act 1988* (Cwlth), section 6C.

## **427 Homework guidelines for State schools**

- (1) The chief executive may make guidelines about homework for State schools.
- (2) Issues that may be addressed by a guideline include the following—
  - (a) the purpose of homework;
  - (b) homework approaches appropriate to each stage of learning at a State school;
  - (c) the setting of homework tasks for a student appropriate to the student's ability;
  - (d) the recommended amount of time a student should be expected to spend on homework;
  - (e) the responsibilities of teachers, parents and students in relation to homework;

- (f) the development and implementation of a homework policy by a State school's principal.
- (3) A guideline may be amended or replaced by a later guideline made under this section.
- (4) A guideline must be made available to each principal of a State school.

#### **428 Collection of demographic information**

- (1) The chief executive may collect demographic information about State school students and their parents if the only purpose of the collection is give effect to, or manage, an education funding arrangement.
- (2) To remove any doubt, it is declared that subsection (1) does not prevent the collection by the chief executive of demographic information about State school students and their parents for a purpose of this Act.
- (3) In this section—

*education funding arrangement* means a funding arrangement for educational services provided by the State entered into between the Commonwealth and the State.

#### **429 Chief executive's directions about State school records and reports**

A State school's principal 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.

#### **429A Prohibition on use of certain terms**

- (1) A licensee must not use any of the following terms in describing child care provided under the licence—

- (a) ‘preparatory year’;
- (b) ‘prep year’;
- (c) ‘prep’.

Maximum penalty—

- (a) for a first offence—50 penalty units; or
- (b) for a second or subsequent offence—100 penalty units.

- (2) In this section—

*licence* see the *Child Care Act 2002*, schedule 2.

*licensee* means the holder of a licence under the *Child Care Act 2002*.

#### **430 Failure to decide application**

- (1) This section applies if, under this Act, the chief executive is taken to have decided to refuse to grant an application.
- (2) To remove any doubt, it is declared the chief executive must as soon as practicable give the applicant an information notice about the decision.

#### **431 Delegation by Minister**

- (1) The Minister may delegate the Minister’s functions under this Act to an appropriately qualified person.
- (2) In this section—

*appropriately qualified* includes having the qualifications, experience or standing appropriate for the function.

*Example of standing—*

a person’s classification level in a department

*functions* includes powers.

#### **432 Delegation by chief executive**

- (1) The chief executive may delegate the chief executive’s functions under this Act to an appropriately qualified officer of the department.

(2) In this section—

*appropriately qualified* includes having the qualifications, experience or standing appropriate for the function.

*Example of standing—*

a person's classification level in the department

*functions* includes powers.

### **433 Approval of forms**

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

### **434 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about the following—
  - (a) fees, including the refunding of fees, for this Act, other than the fees mentioned in section 51;<sup>33</sup>
  - (b) the management, administration and control of the operations of a State educational institution;
  - (c) the use of a State educational institution's premises;
  - (d) the dissolution of an association or school council;
  - (e) the requirements about the age for enrolment of a child at a State school or non-State school;
  - (f) imposing a penalty of not more than 10 penalty units for a contravention of a provision of a regulation.
- (3) Without limiting subsection (2)(a), a regulation may be made about fees for the provision of education, including distance education, by a State school to a person enrolled at a non-State school.

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<sup>33</sup> Section 51 (Power to charge particular persons or for particular educational services)

## Chapter 20      **Repeal, validations and transitional provisions**

### Part 1              **Repeal of Acts**

#### 435      **Repeal**

The following Acts are repealed—

- Education (General Provisions) Act 1989 No. 30
- Youth Participation in Education and Training Act 2003 No. 62.

### Part 2              **Validations**

#### 436      **Validation of fee waiver**

- (1) This section applies if, before the commencement of this section, the chief executive waived, wholly or partly, the payment by a person of a fee payable under the *Education (General Provisions) Regulation 2000*, section 72(4).
- (2) The waiver is taken to be, and to always have been, valid and effective.

### Part 3              **Transitional provisions**

#### 437      **Definitions for pt 3**

*commencement* means the commencement of the provision in which the term appears.

*corporation sole* means the corporation sole named ‘The Minister for Education of Queensland’, constituted under the repealed E(GP) Act.



*repealed E(GP) Act* means the *Education (General Provisions) Act 1989* as in force from time to time before its repeal.

*repealed YPET Act* means the *Youth Participation in Education and Training Act 2003* as in force from time to time before its repeal.

#### **438 References to repealed Acts**

In an Act or document, a reference to the *Education (General Provisions) Act 1989* or the *Youth Participation in Education and Training Act 2003* may, if the context permits, be taken to be a reference to this Act.

#### **439 Dissolution of corporation sole**

On the commencement, the corporation sole is dissolved.

#### **440 Vesting of assets, rights and liabilities of corporation sole**

- (1) On the commencement—
  - (a) the assets, rights and liabilities of the corporation sole vest in the State; and
  - (b) the State is substituted for the corporation sole in all contracts to which the corporation sole is a party; and
  - (c) any property held by the corporation sole on trust is held by the State on the terms of the trust.
- (2) Despite subsection (1)(b), the chief executive is substituted for the corporation sole in all contracts, entered into under the *Education (Work Experience) Act 1996*, section 8 or 9, to which the corporation sole is a party.

#### **441 Legal proceedings involving the corporation sole**

A legal proceeding that could have been started or continued by or against the corporation sole immediately before the commencement may be started or continued against the State.

**442 References to corporation sole**

A reference in an Act or document in existence immediately before the commencement to the corporation sole may, if the context permits, be taken to be a reference to the State.

**443 Offences**

- (1) Proceedings for an offence against the repealed E(GP) Act or the repealed YPET Act may be continued, or started, and the provisions of the repealed E(GP) Act or the repealed YPET Act necessary or convenient to be used in relation to the proceedings continue to apply as if this Act had not commenced.
- (2) For subsection (1), the *Acts Interpretation Act 1954*, section 20,<sup>34</sup> applies but does not limit the subsection.

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

- (1) Subsection (2) applies if, immediately before the commencement, the Minister, or a person authorised by the Minister for the repealed E(GP) Act, section 9, was a member of a committee, group or body mentioned in that section.
- (2) The committee, group or body is taken to be an entity mentioned in section 411 and the Minister or person authorised by the Minister is taken to be a member of the committee, group or body for that section.
- (3) Subsection (4) applies if, immediately before the commencement, the Minister, or person authorised by the Minister, was a party to an agreement mentioned in the repealed E(GP) Act, section 9, with a committee, group or body mentioned in that section.
- (4) The Minister or person authorised by the Minister is taken to be a party to an agreement mentioned in section 411.

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34 *Acts Interpretation Act 1954*, section 20 (Saving of operation of repealed Act etc.)

**445 Advisory committees**

An advisory committee established under the repealed E(GP) Act, section 12, and in existence immediately before the commencement continues as an advisory committee established under section 412 and the members of the committee continue as members.

**446 State educational institutions**

- (1) A State school established under the repealed E(GP) Act, section 16, and in existence immediately before the commencement, is taken to be a State school established under section 13.
- (2) A centre for continuing secondary education established under the repealed E(GP) Act, section 17, and in existence immediately before the commencement, is taken to be a State school established under section 13.
- (3) An environmental education centre or outdoor education centre established under the repealed E(GP) Act, section 17, and in existence immediately before the commencement, is taken to be a State educational institution established under section 14.
- (4) A State preschool centre established under the repealed E(GP) Act, section 17, and in existence immediately before the commencement, is taken to be a State educational institution established under section 15.
- (5) A centre, hostel or college established under the repealed E(GP) Act, section 18, and in existence immediately before the commencement, is taken to be a State educational institution established under section 15.

**447 Curriculum framework and directions**

- (1) A curriculum framework applying, immediately before the commencement, under the repealed E(GP) Act, section 19 to an educational institution is taken to be a curriculum framework applying to the institution under section 21.

- (2) A direction given under the repealed E(GP) Act, section 19B(2), and in force immediately before the commencement, is taken to be a direction given under section 23(2).
- (3) A direction given under the repealed E(GP) Act, section 19B(3), and in force immediately before the commencement, is taken to be a direction given under section 23(3).
- (4) A direction given under the repealed E(GP) Act, section 19B(4), and in force immediately before the commencement, is taken to be a direction given under section 23(4).
- (5) A direction given under the repealed E(GP) Act, section 19C, and in force immediately before the commencement, is taken to be a direction given under section 24.

**448 Chief executive's directions about State school records and reports**

A written direction about school records or reports given by the chief executive to a State school principal under the repealed E(GP) Act, section 25(1), and in force at the commencement, is taken to be a written direction under section 429.

**449 Religious instruction**

- (1) An accredited representative of a religious denomination or society who, immediately before the commencement, was entitled to give religious instruction to students of a State school under the repealed E(GP) Act, section 26(1), is taken to be approved to give religious instruction to students of a State school under section 76(1).
- (2) A notice given under the repealed E(GP) Act, section 26(5) and in effect immediately before the commencement is taken to have been given under section 76(5).

**450 Application for mature age student notices**

An application for a mature age student notice made to the chief executive under the repealed E(GP) Act, section 26AD, but not decided under section 26AE of that Act immediately before the commencement—

- (a) is taken to have been made under section 28; and
- (b) must be decided under section 29.

#### **451 Currency of positive notice**

A positive notice issued under the repealed E(GP) Act, section 26AE, and in force immediately before the commencement—

- (a) is taken to be a positive notice issued under section 29; and
- (b) remains in force until it would have expired under the repealed E(GP) Act unless it is sooner cancelled and replaced under chapter 2, part 5, division 5.

#### **452 Review of decision to issue negative notice**

- (1) If, immediately before the commencement, a person was entitled under the repealed E(GP) Act, section 26AP, to apply for a review of a decision to issue the person with a negative notice but had not applied, the person may apply for a review under section 40.
- (2) An application for a review made under the repealed E(GP) Act, section 26AP, but not decided under section 26AR of that Act immediately before the commencement—
  - (a) is taken to be an application made under section 40; and
  - (b) must be decided under section 42.

#### **453 Behaviour plans**

A behaviour management plan for a State school, developed under the repealed E(GP) Act, section 27, and in force immediately before the commencement, is taken, for 6 months after the commencement, to be an approved behaviour plan for the school, under chapter 12, part 2.

#### **454 Time limit on new application for mature age student notice**

- (1) Subsection (2) applies if—

- (a) before the commencement, the chief executive decided an application under the repealed E(GP) Act for a mature age student notice by issuing the person with a negative notice; and
  - (b) immediately before the commencement, the time under section 26AT of that Act before which the person could make another application had not arrived.
- (2) The person may not make an application for a mature age student notice under chapter 2, part 5, before that time.

**455 Suspension of student**

If a student was suspended under the repealed E(GP) Act, section 29, and, immediately before the commencement, the period of suspension had not expired, the period continues as if it were a suspension under section 285.

**456 Submission against suspension for more than 5 days**

If, immediately before the commencement, a student was entitled under the repealed E(GP) Act, section 31, to make a submission against a suspension of more than 5 days but had not made a submission, the student may make the submission under section 287.

**457 Dealing with submissions against suspension for more than 5 days**

If a submission against a suspension for more than 5 days was made under the repealed E(GP) Act, section 31, but not dealt with under section 32 of that Act before the commencement, the submission may be dealt with under section 288.

**458 Recommendation to principal's supervisor of exclusion of student**

A recommendation that a student be excluded, made under the repealed E(GP) Act, section 34(2), but not dealt with under section 36 of that Act before the commencement—

- (a) is taken to be a recommendation made under section 290(2); and
- (b) may be dealt with under section 293.

**459 Suspension pending dealing with recommendation for exclusion**

If a student was suspended from a State educational institution, under the repealed E(GP) Act, section 34(2)(b), but, immediately before the commencement, had not been given a notice under subsection (3) of that section—

- (a) the suspension is taken to be a suspension under section 290(2)(b); and
- (b) the student must be given a notice under section 290(3).

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

If, immediately before the commencement, a student was entitled under the repealed E(GP) Act, section 35, to make a submission against a suspension and recommendation for exclusion but had not made a submission, the student may make the submission under section 292.

**461 Exclusion of student by principal's supervisor**

If a student was excluded under the repealed E(GP) Act, section 36, and, immediately before the commencement, the period of exclusion had not expired, the period continues as if it were a exclusion under section 293.

**462 Suspension pending final decision about exclusion**

If a student was suspended under the repealed E(GP) Act, section 36C, and, immediately before the commencement, the period of suspension had not expired, the period continues as if it were a suspension under section 300.

**463 Submissions against proposed exclusion**

If, immediately before the commencement, a student was entitled under the repealed E(GP) Act, section 36D, to make a submission against a proposed exclusion but had not made a submission, the student may make the submission under section 301.

**464 Exclusion of student by chief executive**

If a student was excluded under the repealed E(GP) Act, section 36E, and, immediately before the commencement, the period of exclusion had not expired, the period continues as if it were an exclusion under section 302.

**465 Submission against exclusion decision**

If, immediately before the commencement, an excluded person was entitled under the repealed E(GP) Act, section 37, to make a submission against the exclusion but had not made a submission, the excluded person may make the submission under section 312.

**466 Dealing with submissions against exclusions**

If a submission against exclusion was made to the chief executive under the repealed E(GP) Act, section 37, but the chief executive had not made a decision under section 38 about the submission before the commencement, the submission—

- (a) is taken to have been made under section 312; and
- (b) must be dealt with under section 313.

**467 Periodic review of decision to exclude**

If, immediately before the commencement, a person was entitled under the repealed E(GP) Act, section 38A(4), to make a submission to the chief executive about whether the person's exclusion should be revoked but the person had not made a submission, the person may make the submission under section 314.



**468 Dealing with submissions about whether exclusion should be revoked**

If a submission about whether a student's exclusion should be revoked was made to the chief executive under the repealed E(GP) Act, section 38A, but, before the commencement, the chief executive had not made a decision about the submission, the submission—

- (a) is taken to have been made under section 314; and
- (b) must be dealt with under section 314.

**469 Cancellation of student's enrolment**

If a student's enrolment was cancelled under the repealed E(GP) Act, section 40, and, immediately before the commencement, the period of cancellation had not expired, the period continues as if it were a cancellation under section 320.

**470 Submission against cancellation of enrolment**

If, immediately before the commencement, a person under a cancellation was entitled under the repealed E(GP) Act, section 41, to make a submission against the cancellation of enrolment but had not made a submission, the person may make the submission under section 321.

**471 Dealing with submissions against cancellation of enrolment**

If a submission against the cancellation of a person's enrolment was made to a principal's supervisor under the repealed E(GP) Act, section 41, but, immediately before the commencement, the supervisor had not made a decision about the submission, the submission—

- (a) is taken to have been made under section 321; and
- (b) must be dealt with under section 322.

**472 Submissions about suspensions, exclusions or cancellations**

- (1) If, immediately before the commencement, a parent of a student who was under 18 years was entitled, under the repealed E(GP) Act, section 45, to make a submission about a suspension, suspension and recommendation for exclusion, exclusion or cancellation, but had not made a submission, the parent may make the submission under section 331.
- (2) In this section—  
*parent*, in relation to a student who is under 18 years, has the meaning the term had under the repealed E(GP) Act and includes an adult who has the care and control of the student.

**473 Directions about conduct or movement at premises of State instructional institutions**

- (1) A direction about a person's conduct or movement at a State educational institution's premises, given under the repealed E(GP) Act, section 48C, and in force immediately before the commencement—
  - (a) is taken to be a direction given under section 337; and
  - (b) remains in force until it would have expired under the repealed E(GP) Act if this Act had not commenced.
- (2) Subsection (3) applies if—
  - (a) immediately before the commencement, a person was entitled under the repealed E(GP) Act, section 48D, to apply for a review of a direction given under section 48C but had not applied; and
  - (b) the time period for applying for the review has not expired.
- (3) The time for applying for the review continues until it would have expired under section 48D and the application may be made under section 338.
- (4) An application for review of a direction, made under the repealed E(GP) Act, section 48D, but not decided before the commencement, is taken to be an application made under section 338.

**474 Directions to leave and not re-enter premises of State instructional institutions**

A direction requiring a person to immediately leave and not re-enter a State educational institution's premises for 24 hours, given under the repealed E(GP) Act, section 48E, and in force immediately before the commencement—

- (a) is taken to be a direction given under section 339; and
- (b) remains in force until it would have expired under the repealed E(GP) Act if this Act had not commenced.

**475 Prohibition from entering premises of State instructional institutions**

- (1) A direction requiring a person not to enter a State educational institution's premises for up to 60 days, given under the repealed E(GP) Act, section 48F, and in force at the commencement—

- (a) is taken to be a direction given under section 340; and
- (b) remains in force until it would have expired under the repealed E(GP) Act if this Act had not commenced.

- (2) An order prohibiting a person from entering a State educational institution's premises for more than 60 days but not more than 1 year, made under the repealed E(GP) Act, section 48G, and in force at the commencement—

- (a) is taken to be an order made under section 341 of this Act; and
- (b) remains in force until it would have expired under the repealed E(GP) Act if this Act had not commenced.

**476 Directions about conduct or movement at premises of non-State schools**

- (1) A direction about a person's conduct or movement at a non-State school's premises, given under the repealed E(GP) Act, section 48L, and in force immediately before the commencement—

- (a) is taken to be a direction given under section 346; and

- (b) remains in force until it would have expired under the repealed E(GP) Act if this Act had not commenced.
- (2) Subsection (3) applies if—
  - (a) immediately before the commencement, a person was entitled under the repealed E(GP) Act, section 48M, to apply for a review of a direction given under section 48L of that Act but had not applied; and
  - (b) the time period for applying for the review has not expired.
- (3) The time for applying for the review continues until it would have expired under the repealed E(GP) Act, section 48M, and the application may be made under section 347.
- (4) An application for review of a direction, made under the repealed E(GP) Act, section 48M, but not decided before the commencement, is taken to be an application made under section 347.

#### **477 Directions to leave and not re-enter premises of non-State schools**

A direction requiring a person to immediately leave and not re-enter a non-State school's premises for 24 hours, given under the repealed E(GP) Act, section 48N, and in force immediately before the commencement—

- (a) is taken to be a direction given under section 348; and
- (b) remains in force until it would have expired under the repealed E(GP) Act if this Act had not commenced.

#### **478 Prohibition from entering premises of non-State schools**

- (1) A direction requiring a person not to enter a non-State school's premises for up to 60 days, given under the repealed E(GP) Act, section 48O, and in force immediately before the commencement—
  - (a) is taken to be a direction given under section 349; and
  - (b) remains in force until it would have expired under the repealed E(GP) Act if this Act had not commenced.

- (2) An order prohibiting a person from entering a non-State school's premises for more than 60 days but not more than 1 year, made under the repealed E(GP) Act, section 48P, and in force immediately before the commencement—
- (a) is taken to be an order made under section 350; and
  - (b) remains in force until it would have expired under the repealed E(GP) Act if this Act had not commenced.

**479 Prohibition from entering premises of all State instructional institutions and non-State schools**

- (1) An application, made to a court under the repealed E(GP) Act, section 48R, for an order prohibiting a person from entering the premises of all State educational institutions and non-State schools for up to 1 year, but not decided before the commencement, is taken to have been made under section 352.
- (2) An order prohibiting a person from entering the premises of all State educational institutions and non-State schools for up to 1 year, made under the repealed E(GP) Act, section 48R, and in force immediately before the commencement—
- (a) is taken to be an order made under section 352; and
  - (b) remains in force until it would have expired under the repealed E(GP) Act if this Act had not commenced.

**480 Prohibition from entering premises of all State instructional institutions**

- (1) An application, made to a court under the repealed E(GP) Act, section 48S, for an order prohibiting a person from entering the premises of all State educational institutions for up to 1 year, but not decided before the commencement, is taken to have been made under section 353.
- (2) An order prohibiting a person from entering the premises of all State educational institutions for up to 1 year, made under the repealed E(GP) Act, section 48S, and in force immediately before the commencement—
- (a) is taken to be an order made under section 353; and

- (b) remains in force until it would have expired under the repealed E(GP) Act if this Act had not commenced.

**481 Appeal to District Court**

An appeal, made to the District Court under the repealed E(GP) Act, section 48T, from a decision of a court under section 48R of that Act, but not decided before the commencement is taken to be an appeal made under section 354.

**482 Department's annual report**

The department's annual report for the 2005–2006 financial year must be prepared under the repealed E(GP) Act and not under this Act and, for that purpose, the repealed E(GP) Act continues to apply.

**483 Non-State school's governing body to give particular information to Minister**

For the purpose of the Minister obtaining information under the repealed E(GP) Act, section 48X, for the 2005–2006 financial year, the repealed E(GP) Act continues to apply as if this Act had not commenced.

**484 Provisions about school councils**

- (1) This section applies to a school council established under the repealed E(GP) Act, section 50, and in existence immediately before the commencement.
- (2) The school council continues in existence, subject to this Act, and is taken to have been established under section 79.
- (3) The appointed, elected and official members of the school council holding office under the repealed E(GP) Act immediately before the commencement continue as the appointed, elected and official members of the council under this Act.

- (4) The appointed or elected members continue in office, subject to this Act, for the balance of the term for which they were appointed or elected under the repealed E(GP) Act.
- (5) The person holding office as chairperson of the school council under the repealed E(GP) Act immediately before the commencement continues in office, subject to section 89(3) of this Act, for the balance of the person's term of office under the repealed E(GP) Act.
- (6) The school council's constitution as in force under the repealed E(GP) Act immediately before the commencement continues, subject to this Act, as the council's constitution under this Act.
- (7) An amendment of the school council's constitution prepared and adopted under the repealed E(GP) Act but not approved by the chief executive under that Act may be approved by the chief executive under section 95 of this Act.
- (8) A written direction given to the council under the repealed E(GP) Act, section 79, and not complied with before the commencement is taken to be a direction given to the council under section 116.
- (9) Without limiting subsection (8), a copy of the direction must also be included in the department's annual report for the financial year in which the direction was given under the repealed E(GP) Act.

#### **485 Provisions about parents and citizens associations**

- (1) This section applies to a parents and citizens association or an interim parents and citizens association (in either case, the *existing association*) formed under the repealed E(GP) Act, section 81 or 82, and in existence immediately before the commencement.
- (2) The existing association continues in existence, subject to this Act, and is taken to have been established as a parents and citizens association or an interim parents and citizens association (in either case, the *new association*) under section 118 or 119.
- (3) The persons who were members, including honorary life members, of the existing association immediately before the

commencement continue as members, including as honorary life members, subject to this Act, of the new association.

- (4) An officer of the existing association holding office under the repealed E(GP) Act, section 87,<sup>35</sup> immediately before the commencement continues in office, subject to this Act, as an equivalent officer of the new association until the first annual general meeting of the new association held under this Act.
- (5) A subcommittee established for the existing association under the repealed E(GP) Act, section 90, and in existence immediately before the commencement continues as a subcommittee of the new association under section 130.
- (6) An agreement entered into by the existing association or by the Minister under the repealed E(GP) Act, section 96,<sup>36</sup> and in force immediately before the commencement continues as a relevant agreement entered into by the new association or by the Minister under section 137.<sup>37</sup>
- (7) The repealed E(GP) Act, section 100,<sup>38</sup> continues to apply to things done or omitted to be done by a member of the existing association before the commencement as if this Act had not commenced and for that purpose a reference in the section to the Minister is taken to be a reference to the Minister under this Act.
- (8) If the procedure for removal of a nominated person has started but not ended under the repealed E(GP) Act, section 111,<sup>39</sup> immediately before the commencement, the procedure may continue as if it had started under section 152.<sup>40</sup>
- (9) For a nominated person who was removed under the repealed E(GP) Act, section 111, before the commencement, section 153 applies as if the person had been removed under section 152 and any submission relating to the removal received

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35 Repealed E(GP) Act, section 87 (Officers of an association)

36 Repealed E(GP) Act, section 96 (Power to enter into agreements)

37 Section 137 (Power to enter into relevant agreements)

38 Repealed E(GP) Act, section 100 (Indemnification of association members)

39 Repealed E(GP) Act, section 111 (Procedure for removal of nominated person)

40 Section 152 (Procedure for removal of nominated person)



under the repealed E(GP) Act, section 112,<sup>41</sup> and not finally dealt with under section 113<sup>42</sup> of that Act is taken to have been received under section 153.

- (10) Subsection (11) applies if—
- (a) immediately before the commencement a person could have appealed to a Magistrates Court against a decision of the Minister under the repealed E(GP) Act, section 113, and had not appealed; or
  - (b) a person had appealed to a Magistrates Court against a decision mentioned in paragraph (a) and the appeal has not been finalised before the commencement.
- (11) For the purpose of appealing the decision or for finalising the appeal, the decision is taken to be a decision of the Minister under section 154.
- (12) The existing association's constitution as in force under the repealed E(GP) Act immediately before the commencement continues, subject to this Act, as the existing association's constitution under this Act.

#### **486 Provisions about enrolment at State schools**

- (1) If, immediately before the commencement, a student was enrolled at a State school under the repealed E(GP) Act, the student's enrolment continues under this Act.
- (2) A student mentioned in subsection (1) includes the following—
- (a) a student who is enrolled at, and attending, the school;
  - (b) a student who is enrolled at, but has not started attending, the school;
  - (c) a student enrolled at the school for 2006 but enrolled at a different State school for 2007;
  - (d) a student enrolled at the school but suspended under the repealed E(GP) Act, section 29, 34 or 36C;

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41 Repealed E(GP) Act, section 112 (Submissions against removal)

42 Repealed E(GP) Act, section 113 (Dealing with submissions against removal)

- (e) a student enrolled at the school for 2006 and, under the repealed E(GP) Act, section 127, granted extra semesters at the school for 2007.
- (3) If an application for enrolment at a State school was made but not decided before the commencement—
  - (a) the application lapses; and
  - (b) an application for enrolment may be made under section 155.

**488 Exemption from compliance with compulsory enrolment and attendance provisions**

- (1) A dispensation from complying with the enrolment and attendance obligations under the repealed E(GP) Act, section 114, granted under section 115 of that Act and in force immediately before the commencement—
  - (a) is taken to be an exemption issued under section 189; and
  - (b) remains in force until it would have expired under the repealed E(GP) Act if this Act had not commenced.
- (2) Subsection (1) does not apply to a dispensation granted for a reason mentioned in the repealed E(GP) Act, section 115(2)(a)(i).

**489 Application for exemption from compliance with compulsory enrolment and attendance provisions**

- (1) An application for dispensation from complying with the enrolment and attendance obligations under the repealed E(GP) Act, section 114, made under section 116 of that Act but not decided before the commencement—
  - (a) is taken to be an application under section 186; and
  - (b) must be decided under section 189.
- (2) However, if the application for dispensation was for a reason mentioned in the repealed E(GP) Act, section 115(2)(a)(i), subsection (1) does not apply.

**490 Particular dispensation from compliance with compulsory enrolment and attendance provisions**

A dispensation from complying with the enrolment and attendance obligations under the repealed E(GP) Act, section 114, granted for a reason mentioned in section 115(2)(a)(i) of that Act and in force immediately before the commencement—

- (a) has effect as a dispensation from complying with section 176; and
- (b) remains in force until it would have expired under the repealed E(GP) Act if this Act had not commenced.

**491 Particular application for exemption from compliance with compulsory enrolment and attendance provisions**

- (1) Subsection (2) applies to an application for dispensation, for a reason mentioned in the repealed E(GP) Act, section 115(2)(a)(i), from complying with the enrolment and attendance obligations under section 114 of that Act, made under section 116 of that Act but not decided before the commencement.
- (2) The application is taken to be an application for provisional registration of a child for home education made under section 207.

**492 Dispensation from requirement to participate in an eligible option**

A dispensation from the requirement to participate in an eligible option, granted under the repealed YPET Act, section 24, and in force immediately before the commencement—

- (a) is taken to be an exemption granted under section 244; and
- (b) remains in force until it would have expired under the repealed YPET Act if this Act had not commenced.

**493 Home schooling dispensation from requirement to participate in an eligible option**

A dispensation from the requirement to participate in an eligible option, granted under the repealed YPET Act, section 25, and in force immediately before the commencement—

- (a) has effect as a dispensation from complying with section 239; and
- (b) remains in force until 31 December 2006.

**494 Application for exemption from requirement to participate in an eligible option**

An application under the repealed YPET Act, section 26, for a dispensation under section 24 of that Act from the requirement to participate in an eligible option, made but not decided before the commencement—

- (a) is taken to be an application under section 245; and
- (b) must be decided under section 248.

**495 Application for home schooling exemption from requirement to participate in an eligible option**

An application under the repealed YPET Act, section 26, for a dispensation under section 25 of that Act from the requirement to participate in an eligible option, made but not decided before the commencement, is taken to be an application for provisional registration of a child for home education made under section 207.

**496 Student account**

A student account opened under the repealed YPET Act, part 4, and in existence immediately before the commencement, is taken to be a student account opened under chapter 11.

**497 Flexible arrangements**

- (1) Arrangements approved under the repealed E(GP) Act, section 114A, to apply to a student of a non-State school instead of participation in the school's educational programs

in the usual way, and in force immediately before the commencement, are taken to be arrangements approved under section 182.

- (2) Arrangements approved under the repealed E(GP) Act, section 114B, to apply to a student of a State educational institution instead of participation in the institution's educational programs in the usual way, and in force immediately before the commencement, are taken to be arrangements approved under section 183.

#### **498 Principal's decision about student's remaining allocation**

If the principal of a State educational institution was required under the repealed E(GP) Act, section 123, to make a decision about a student's remaining allocation but the decision had not been made before the commencement, the decision must be made under section 61.

#### **499 Notice about student's remaining allocation**

If the principal of a State educational institution was required under the repealed E(GP) Act, section 124(4)(b), to give notice to a student about the student's remaining allocation but the notice had not been given before the commencement, the notice must be given under section 62(4)(b).

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

An application for the granting of extra semesters made to the principal of a State educational institution under the repealed E(GP) Act, section 126, but not decided before the commencement is taken to be an application under section 65.

#### **501 Notice about student's extra semesters**

If the principal of a State educational institution was required under the repealed E(GP) Act, section 127(3)(b), to give notice to a student of the principal's decision about the student's application for extra semesters but the notice had not been given before the commencement, the notice must be given under section 66(3)(b).

**502 Submissions against decisions about allocation of semesters or application for extra semesters**

- (1) Subsection (2) applies if, immediately before the commencement, a student was entitled under the repealed E(GP) Act, section 129, to make a submission against a decision about either of the following but had not made a submission—
- (a) the allocation of semesters to the student under the repealed E(GP) Act, part 8, division 2, including a decision under section 123(3) or (4) or 125 of that Act;
  - (b) the student's application for an extra semester or semesters under part 8, division 3 of that Act.
- (2) The time period for making the submission continues until it would have expired under that section if this Act had not commenced and the submission may be made under section 68.

**503 Dealing with submissions against decisions about allocation of semesters or application for extra semesters**

If a submission against a decision about either of the following was made under the repealed E(GP) Act, section 129, but not dealt with under section 130 of that Act before the commencement, the submission is taken to have been made under section 68—

- (a) the allocation of semesters to the student under the repealed E(GP) Act, part 8, division 2, including a decision under section 123(3) or (4) or 125;
- (b) the student's application for an extra semester or semesters under part 8, division 3.

**504 Notice about decisions about allocation of semesters or application for extra semesters**

If, immediately before the commencement, notice was required to be given to a student under the repealed E(GP) Act, section 130(2)(b), about either of the following but the notice had not been given, the notice must be given under section 69(2)(b)—

- (a) the allocation of semesters to the student;
- (b) the student's application for extra semesters.

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

An application for the granting of further semesters made to the chief executive under the repealed E(GP) Act, section 131, but not decided before the commencement is taken to be an application under section 71.

**506 Notice about student's further semesters**

- (1) Subsection (2) applies if the chief executive was, immediately before the commencement, required under the repealed E(GP) Act, section 132(3)(b), to give notice to a student of the chief executive's decision about the student's application for further semesters but the notice had not been given.
- (2) The notice or, if relevant, an information notice must be given under section 72(3)(b) of this Act.

**507 Financial data**

- (1) This section applies if—
  - (a) under the repealed E(GP) Act, section 134AC,<sup>43</sup> the Minister has given the governing body of a non-State School a notice; and
  - (b) the time stated in the notice has not ended before the commencement; and
  - (c) the body has not complied with the notice before the commencement.
- (2) The governing body must comply with the notice and for that purpose the financial data to which the notice relates or the notice are taken to have been given under section 370 or 371.<sup>44</sup>

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43 Repealed E(GP) Act, section 134AC (Further information or documents relating to financial data)

44 Section 370 (Requirement to give financial data) or 371 (Further information or documents relating to financial data)

**508 Finalising show cause process relating to allowances paid for non-State schools**

- (1) This section applies if—
  - (a) immediately before the commencement a show cause process could have been started under the repealed E(GP) Act, section 134D,<sup>45</sup> in relation to the governing body of a non-State school but the process had not started; or
  - (b) at the commencement the show cause process had been started but had not been finalised under the repealed E(GP) Act, section 134H.<sup>46</sup>
- (2) The process may be started and finalised or continued and finalised under chapter 13, part 4,<sup>47</sup> and for that purpose the part applies with any necessary or convenient changes.

**509 International educational institutions**

- (1) Subsection (2) applies to an approval to establish or conduct an international educational institution, given under the repealed E(GP) Act, section 144, and in force immediately before the commencement.
- (2) The approval—
  - (a) is taken to be an approval under section 415; and
  - (b) continues to be subject to the conditions stated on the approval; and
  - (c) is subject to the conditions mentioned in section 417(2).

**510 Appeals**

- (1) Subsection (2) applies if—
  - (a) immediately before the commencement a person could have appealed to a Magistrates Court against a decision

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45 Repealed E(GP) Act, section 134D (Show cause notice)

46 Repealed E(GP) Act, section 134H (Decision of Minister)

47 Chapter 13 (Schools in receipt of subsidy), part 4 (Giving of allowance acquittal details)



- of a principal's supervisor under the repealed E(GP) Act, section 130, or a decision of the chief executive under section 132 of that Act and had not appealed; or
- (b) a person had appealed to a Magistrates Court against a decision mentioned in paragraph (a) and the appeal has not been finalised before the commencement.
- (2) For the purpose of appealing the decision or for finalising the appeal—
- (a) a decision of a principal's supervisor under the repealed E(GP) Act, section 130, is taken to be a decision of a principal's supervisor under section 69; and
  - (b) a decision of the chief executive under the repealed E(GP) Act, section 132, is taken to be a decision of the chief executive under section 72.

### **510A Limited effect of s 429A for 1 year**

For 1 year after section 429A<sup>48</sup> commences, the section does not apply to a person who, on the commencement of the section, was the holder of a licence under the *Child Care Act 2002*.

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48 Section 429A (Prohibition on use of certain terms)

## Schedule 4      Dictionary

### section 8

***accepted representations***—

- (a) for chapter 8, part 1, division 2—see section 160(2); or
- (b) for chapter 9, part 3, division 4—see section 195(2); or
- (c) for chapter 9, part 5, division 5—see section 223(2); or
- (d) for chapter 12, part 4, division 4—see section 307(2); or
- (e) for chapter 12, part 4, division 7—see section 318(2); or
- (f) for chapter 13, part 4—see section 377(2).

***advisory committee*** means an advisory committee established under section 412.

***aggrieved person***, for chapter 15, part 4, see section 401.

***allowance***, for chapter 13, see section 367.

***alternative association member***, for chapter 6, see section 77.

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

***appellant*** see section 397.

***appointed member***, for chapter 6, see section 77.

***appropriately qualified***, for chapter 12, part 4, division 8, see section 323.

***approved behaviour plan***, for chapter 12, part 2, see section 275.

***approved entity***, for chapter 18, see section 414.

***approved form*** means a form approved by the chief executive under section 433.

***approved policy***, for chapter 13, see section 367.

## Schedule 4 (continued)

**AQF** see the VETE Act, section 19.<sup>49</sup>

**association** means—

- (a) a parents and citizens association formed for a State instructional institution under section 118; or
- (b) an interim parents and citizens association formed for a proposed State instructional institution under section 119.

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

**attending**, a provider or other entity, means complying with the provider or entity's attendance requirements in the relevant way stated in section 234(2) or (3).

**authorised officer**, for chapter 16, part 1, see section 404.

**basic allocation** see section 11(1).

**behaviour improvement condition**, for chapter 12, part 4, division 8, see section 323.

**behaviour management program**, for chapter 12, part 4, division 8, see section 323.

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

**catchment area**, for chapter 8, part 3, see section 169.

**certificate III** means a qualification by that name under the AQF.

**certificate IV** means a qualification by that name under the AQF.

**certificate of achievement** see the QSA Act, schedule 2.

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49 VETE Act, section 19—

**AQF** means the policy framework entitled 'Australian Qualifications Framework' that defines all qualifications (whether as defined under this chapter or otherwise) recognised nationally in education and training within Australia, endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs so as to commence on 1 January 1995 and that policy framework as amended from time to time.

## Schedule 4 (continued)

***chairperson***, for chapter 6, see section 77.

***challenging behaviour***, for chapter 12, part 4, division 8, see section 323.

***charge***, for chapter 2, part 5, see section 25.

***chief executive (child safety)*** means the chief executive of the department in which the *Child Protection Act 1999* is administered.

***chief executive (transport)***, for chapter 3, see section 48.

***closure***, for chapter 2, part 3, see section 17.

***compulsory participation phase*** see section 231.

***compulsory school age*** see section 9.

***convicted***, of an offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

***coopted student member***, for chapter 6, see section 77.

***court***—

- (a) for chapter 12—see section 274; or
- (b) for chapter 15, part 3—see section 396; or
- (c) for chapter 15, part 4—see section 401.

***criminal history***—

- (a) for chapter 2, part 5—see section 25; or
- (b) for chapter 18—see section 414.

***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.

***educational program*** includes—

- (a) for a reference to an educational program provided under this Act—a program under arrangements approved under section 183; or

## Schedule 4 (continued)

- (b) for a reference to an educational program provided under the *Education (Accreditation of Non-State Schools) Act 2001*—a program under arrangements approved under section 182.

***effective enrolment eligibility plan***, for chapter 8, part 4, see section 173.

***effective enrolment management plan***, for chapter 8, part 3, see section 169.

***elected member***, for chapter 6, see section 77.

***elected parent member***, for chapter 6, see section 77.

***elected staff member***, for chapter 6, see section 77.

***elected student member***, for chapter 6, see section 77.

***eligible option*** see section 232.

***employee***—

- (a) for chapter 12, part 6—see section 335; or  
 (b) for chapter 12, part 7—see section 343; or  
 (c) for chapter 12, part 11—see section 364.

***employment exemption*** means an employment exemption in force under the VETE Act, chapter 5, part 3, division 5A.<sup>50</sup>

***enrolment eligibility plan***, for chapter 8, part 4, see section 173.

***enrolment management plan***, for chapter 8, part 3, see section 169.

***exclude***, a student from a State school, means prohibit the student from enrolling at the school while the exclusion is in force.

***excluded person*** see section 311.

***exclusion decision*** see section 312(1).

***exemption***, for chapter 9, part 3, see section 184.

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<sup>50</sup> VETE Act, chapter 5 (Ombudsman and council), part 3 (Training and Employment Recognition Council), division 5A (Deciding employment exemptions)

## Schedule 4 (continued)

***exempt person***—

- (a) for chapter 12, part 6—see section 335; or
- (b) for chapter 12, part 7—see section 343.

***external program*** means—

- (a) an educational program under section 286(2) or 291; or
- (b) a program under arrangements approved under section 182 or 183; or
- (c) another program or course for which the provider's requirements do not include physically attending, at particular times, the provider's premises or another place.

***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.

***full-time***, in relation to participation in an eligible option, means at a level that is full-time under the following provisions—

- (a) for an apprenticeship or traineeship under the VETE Act—section 238(2);
- (b) otherwise—section 235.

***home education***, for chapter 9, part 5, see section 205.

***human services*** includes education, family support, health and housing.

## Schedule 4 (continued)

***human services entity*** means a Commonwealth, State or local government entity with functions relating to human services.

***information*** includes a document.

***information notice***, for a decision of the chief executive, is a notice stating the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the person to whom the notice is given may have the decision reviewed within 30 school days;
- (d) how the person may have the decision reviewed.

***international educational institution***, for chapter 18, see section 414.

***international institution approval***, for chapter 18, see section 416(1).

***mature age State school***, for chapter 2, part 5, see section 25.

***mature age student***, for chapter 2, part 5, see section 25.

***mature age student notice***, for chapter 2, part 5, see section 25.

***misconduct***, of a student of a State school, includes misconduct happening while the student is—

- (a) attending or representing the school; or
- (b) travelling to or from the school.

***model constitutions*** see section 96.

***nearest applicable school***, for chapter 3, see section 48.

***negative notice***, for chapter 2, part 5, see section 25.

***nominated person***, for chapter 7, part 10, see section 149.

***non-departmental employment skills development program*** means a program included in the register maintained under the VETE Act, section 183E.

## Schedule 4 (continued)

***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 an 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*.

***non-university provider*** see the *Higher Education (General Provisions) Act 2003*, schedule 2.

***notice*** means written notice.

***notice of removal***, for chapter 7, part 10, see section 149.

***notice recommending exclusion*** see section 290(3).

***officer***, of an association, means a person elected to an office of the association under section 123.

***official member***, for chapter 6, see section 77.

***original decision***—

(a) for chapter 2, part 5, division 6—see section 39; or

(b) for chapter 15, part 1—see section 390.

***original direction*** see section 397.

***overseas curriculum***, for chapter 18, see section 414.

***parent***—

(a) generally—see section 10; or

(b) for chapter 12, part 4, division 9—see section 328.

***parents and citizens association*** means a parents and citizens association formed under chapter 7.

***participating***, in an eligible option, means participating under the following provisions—

(a) for an apprenticeship or traineeship under the VETE Act—section 238(2);

(b) otherwise—section 234.

***permanent resident***, for chapter 3, see section 48.



## Schedule 4 (continued)

***person under the cancellation*** see section 320(3).

***person with a disability*** see section 165(1).

***planning activities*** see section 6(a).

***positive notice***, for chapter 2, part 5, see section 25.

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

***preparatory year*** means the year of schooling immediately before year 1.

***president***, of an association, means the president of the association elected under section 123.

***primary education*** means education offered in the preparatory year and years 1 to 7.

***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***, in relation to the principal of a State instructional institution, means the officer employed in the department who holds the position as the principal's supervisor.

***prospective student*** see section 155(1).

***provider***—

- (a) generally for chapter 10—see section 232; and
- (b) in a provision about an eligible option—means the provider for the option.

***provisional registration***, for chapter 9, part 5, see section 205.

***QSA*** means the Queensland Studies Authority established under the QSA Act, section 6.

***QSA Act*** means the *Education (Queensland Studies Authority) Act 2002*.

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

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

## Schedule 4 (continued)

**re-engagement activities** see section 6(b).

**registered teacher** see the *Education (Queensland College of Teachers) Act 2005*, schedule 3.

**registered training organisation** see the VETE Act, section 14.

**registration**, for chapter 9, part 5, see section 205.

**relevant agreement**, for chapter 7, part 8, see section 136.

**relevant person**, for chapter 14, see section 383.

**remaining allocation** see section 11(3).

**remote area** see section 49.

**remove**, for chapter 7, part 10, see section 149.

**removed person**, for chapter 7, part 10, see section 149.

**review body**, for chapter 12, part 7, division 3, see section 345(1).

**review decision**, for chapter 15, see section 392(2).

**school council**, for a State school, means the school council established for the school under section 79.

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

**school in receipt of subsidy** means—

- (a) a State school; or
- (b) a non-State school in receipt of subsidy.

**school of distance education** means—

- (a) a State school providing 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 studies** see the QSA Act, schedule 2.

**secondary education** means education offered in years 8 to 12.

## Schedule 4 (continued)

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

**semester 1** means the period notified by the Minister in the gazette as semester 1.

**semester 2** means the period notified by the Minister in the gazette as semester 2.

**senior statement** means a statement of results of that type issued under the QSA Act.

**serious offence** see the *Commission for Children and Young People and Child Guardian Act 2000*, schedule 4.

**show cause notice**—

- (a) for chapter 8, part 1, division 2—see section 159(1); or
- (b) for chapter 9, part 3, division 4—see section 194(1); or
- (c) for chapter 9, part 5, division 5—see section 222(1); or
- (d) for chapter 12, part 4, division 4—see section 306(1); or
- (e) for chapter 12, part 4, division 7—see section 317(2); or
- (f) for chapter 13, part 4—see section 376(2).

**show cause period**—

- (a) for chapter 8, part 1, division 2—see section 159(1)(d);  
or
- (b) for chapter 9, part 3, division 4—see section 194(2)(d);  
or
- (c) for chapter 9, part 5, division 5—see section 222(2)(d);  
or
- (d) for chapter 12, part 4, division 4—see section 306(1)(d);  
or
- (e) for chapter 12, part 4, division 7—see section 317(2)(d);  
or
- (f) for chapter 13, part 4—see section 376(2)(d).

**special education** means the educational programs and services—

- (a) appropriate to the needs of persons with a disability; and

## Schedule 4 (continued)

- (b) additional to, or otherwise different from, educational programs and services generally available to persons of the relevant age who are not persons with a disability.

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

***standard conditions of registration***, for chapter 9, part 5, see section 205.

***stated State school***, for chapter 4, part 5, see section 70.

***State educational institution*** means an educational institution established under section 13, 14 or 15.

***State instructional institution*** means an educational institution established under section 13 or 14.

***State school*** means an educational institution established under section 13.

***statutory TAFE institute*** means a statutory TAFE institute established under the *Vocational Education, Training and Employment Act 2000*, chapter 6A.

***student***—

- (a) for chapter 4—see section 57; or  
 (b) for chapter 12, part 4, division 9—see section 328.

***student visa holder*** means a person who holds a student visa issued under the *Migration Act 1958* (Cwlth).

***suspend***, a student from a State school, means prohibit the student from attending the school while the suspension is in force.

***TAFE institute*** see the VETE Act, section 191.

***teacher*** see the *Education (Queensland College of Teachers) Act 2005*, schedule 3.

***transfer note*** see section 384.

***university*** see the *Higher Education (General Provisions) Act 2003*, schedule 2.

## Schedule 4 (continued)

***VETE Act*** means the *Vocational Education, Training and Employment Act 2000*.

***VETE chief executive*** means the chief executive of the VETE department.

***VETE department*** means the department in which the VETE Act is administered.

## Endnotes

### 1 Index to endnotes

|  | Page |
|--|------|
| 2 Date to which amendments incorporated . . . . .              | 284  |
| 3 Key . . . . .  | 284  |
| 4 Table of reprints . . . . .                                  | 285  |
| 5 List of legislation . . . . .                                | 285  |
| 6 List of annotations . . . . .                                | 286  |
| 7 List of forms notified or published in the gazette . . . . . | 289  |

### 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 1 July 2008. Future amendments of the Education (General Provisions) Act 2006 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                       |
| num    | = numbered                     | s       | = section                               |
| o in c | = order in council             | sch     | = schedule                              |
| om     | = omitted                      | sdiv    | = subdivision                           |
| orig   | = original                     | SIA     | = Statutory Instruments Act 1992        |
| p      | = page                         | SIR     | = Statutory Instruments Regulation 2002 |
| para   | = paragraph                    | SL      | = subordinate legislation               |
| prec   | = preceding                    | sub     | = substituted                           |
| pres   | = present                      | unnum   | = unnumbered                            |
| prev   | = previous                     |         |   |

## 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       | Notes                    |
|-------------|---------------------|-----------------|--------------------------|
| 1           | none                | 30 October 2006 |                          |
| 1A          | 2006 Act No. 55     | 7 December 2006 |                          |
| 1B          | 2006 Act No. 39     | 1 January 2007  |                          |
| 1C          | —                   | 31 October 2007 | prov exp 30 October 2007 |
| 1D          | 2006 Act No. 55     | 2 November 2007 |                          |
| 1E          | 2007 Act No. 53     | 9 November 2007 |                          |
| 1F          | 2006 Act No. 39     | 1 January 2008  | R1F withdrawn, see R2    |
| 2           | —                   | 1 January 2008  |                          |
| 2A          | 2008 Act No. 25     | 1 July 2008     |                          |

## 5 List of legislation

### **Education (General Provisions) Act 2006 No. 39**

date of assent 11 August 2006

ss 1–2 commenced on date of assent

s 512(2) sch 2 commenced 1 January 2007 (see s 2(1))

s 512(3) sch 3 commenced 1 January 2008 (see s 2(2))

remaining provisions commenced 30 October 2006 (2006 SL No. 247)

amending legislation—

### **Education (General Provisions) Act 2006 No. 39 ss 1–2(2), 512(2)–(3) schs 2–3**

date of assent 11 August 2006

s 512(2) sch 2 commenced 1 January 2007 (see s 2(1))

s 512(3) sch 3 commenced 1 January 2008 (see s 2(2))

remaining provisions commenced on date of assent

### **Education Legislation Amendment Act 2006 No. 55 pts 1–2**

date of assent 7 December 2006

ss 1–2, 20 commenced on date of assent (see s 2(a))

remaining provisions commenced 2 November 2007 (2007 SL No. 265)

### **Vocational Education, Training and Employment and Other Legislation Amendment Act 2007 No. 53 ss 1, 30 sch**

date of assent 9 November 2007

s 30 sch amdt 3 commenced 9 November 2007 (amdt could not be given effect)

remaining provisions commenced on date of assent

### **Higher Education (General Provisions) Act 2008 No. 25 ss 1–2, 154–156, 164 sch 1**

date of assent 9 May 2008

ss 1–2 commenced on date of assent

ss 154–156 commenced 1 July 2008 (2008 SL No. 182)  
 remaining provision not yet proclaimed into force (see s 2)

## **6 List of annotations**

### **Interaction with other legislation**

**s 4** amd 2006 No. 55 s 4

### **Objects of Act**

**s 5** amd 2006 No. 55 s 5

### **Activities to achieve objects of ch 10**

**prov hdg** amd 2006 No. 55 s 6(1)

**s 6** amd 2006 No. 55 s 6(2)–(3)

### **Guiding principles**

**s 7** amd 2006 No. 55 s 7

### **Meaning of “compulsory school age”**

**s 9** amd 2006 No. 39 s 512(3) sch 3

### **Development and revision of 1–12 syllabuses and preparatory guidelines**

**prov hdg** amd 2006 No. 39 s 512(2) sch 2

**s 22** amd 2006 No. 39 s 512(2) sch 2; amd 2006 No. 55 s 8

### **Implementation of syllabus, course or preparatory guideline at State instructional institutions**

**prov hdg** amd 2006 No. 39 s 512(2) sch 2

**s 23** amd 2006 No. 39 s 512(2) sch 2; 2006 No. 55 s 9

### **Fee for distance education provided by a State school**

**s 52** amd 2008 No. 25 s 155

### **Waiver of fee for distance education**

**s 54** amd 2008 No. 25 s 156

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

**s 59** amd 2006 No. 39 s 512(3) sch 3

### **Basic allocation**

**s 60** amd 2006 No. 39 s 512(3) sch 3

### **Remaining allocation**

**s 61** amd 2006 No. 39 s 512(3) sch 3

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

**s 76** amd 2006 No. 39 s 512(2) sch 2

### **Functions of an association**

**s 121** amd 2006 No. 39 s 512(2) sch 2

### **Subcommittees**

**s 130** amd 2006 No. 39 s 512(2) sch 2



**Obligation of each parent**

s 176 amd 2006 No. 39 s 512(2) sch 2; 2006 No. 39 s 512(3) sch 3

**Notice to, and meeting with, parent**

s 178 amd 2006 No. 39 s 512(2) sch 2; 2006 No. 39 s 512(3) sch 3

**Compulsory participation phase**

s 231 amd 2006 No. 55 s 10

**Eligible options and providers**

s 232 amd 2007 No. 53 s 30 sch

**Full-time participation**

s 235 amd 2007 No. 53 s 30 sch

**Obligation to ensure participation**

s 239 amd 2006 No. 55 s 11

**PART 6—MISCELLANEOUS**

pt hdg ins 2006 No. 55 s 12

**Disclosure by chief executive to appropriate entities**

s 251A (prev s 264) renum and reloc 2006 No. 55 s 13

**Consultation about planning**

s 251B (prev s 266) amd 2006 No. 55 s 14(1)  
renum and reloc 2006 No. 55 s 14(2)

**Transitional**

s 251C (prev s 271) renum and reloc 2006 No. 55 s 15

**Confidentiality**

s 251D (prev s 272) amd 2006 No. 55 s 16(1)–(3)  
renum and reloc 2006 No. 55 s 16(4)

**Delegation by chief executive**

s 251E (prev s 273) amd 2006 No. 55 s 17(1)  
renum and reloc 2006 No. 55 s 17(2)

**CHAPTER 11—STUDENT ACCOUNTS**

ch hdg om 2006 No. 55 s 18

**PART 1—PRELIMINARY**

pt 1 (s 252) om 2006 No. 55 s 18

**PART 2—OPENING STUDENT ACCOUNTS FOR YOUNG PERSONS OF  
COMPULSORY SCHOOL AGE**

pt 2 (ss 253–256) om 2006 No. 55 s 18

**PART 3—STUDENT ACCOUNT PHASE**

pt 3 (ss 257–262) om 2006 No. 55 s 18

**PART 4—USE AND DISCLOSURE OF INFORMATION**

pt hdg om 2006 No. 55 s 18

**Use and disclosure by the QSA**

s 263 om 2006 No. 55 s 18

**PART 5—INVOLVEMENT OF CERTAIN NON-STATE SCHOOL ENTITIES****pt hdg** om 2006 No. 55 s 18**Entities to which this part applies****s 265** om 2006 No. 55 s 18**Consultation about proposed regulations****s 267** om 2006 No. 55 s 18**Aggregated information****s 268** om 2006 No. 55 s 18**PART 6—MISCELLANEOUS****pt hdg** om 2006 No. 55 s 18**Student visa holder****s 269** om 2006 No. 55 s 18**Closing of account****s 270** om 2006 No. 55 s 18**Meaning of “transfer note”****s 384** amd 2006 No. 55 s 19**Prohibition on use of certain terms****s 429A** ins 2006 No. 39 s 512(2) sch 2**Transitional provision for compulsory education****s 487** om 2006 No. 39 s 512(2) sch 2**Limited effect of s 429A for 1 year****s 510A** ins 2006 No. 39 s 512(2) sch 2**CHAPTER 21—AMENDMENT OF ACTS****ch hdg** om R1F (see RA s 7(1)(k))**Transitional regulation-making power****s 511** exp 30 October 2007 (see s 511(4))**Consequential and other amendments of Acts****s 512** amd R1 (see RA s 40); R1B (see RA s 40)  
om R1F (see RA s 40)**SCHEDULE 1—CONSEQUENTIAL AND OTHER AMENDMENTS OF ACTS**

om R1 (see RA s 40)

**SCHEDULE 2—AMENDMENTS COMMENCING ON 1 JANUARY 2007**

om R1B (see RA s 40)

**SCHEDULE 3—AMENDMENTS COMMENCING ON 1 JANUARY 2008**

om R1F (see RA s 40)

**SCHEDULE 4—DICTIONARY**def “**aggregated information**” om 2006 No. 55 s 21(1)def “**certificate of achievement**” ins 2006 No. 55 s 21(2)def “**preparatory year**” ins 2006 No. 39 s 512(2) sch 2def “**preschool education**” om 2006 No. 39 s 512(2) sch 2def “**primary education**” amd 2006 No. 39 s 512(2) sch 2

- def “**primary school**” om 2006 No. 39 s 512(2) sch 2
- def “**provider**” amd 2006 No. 55 s 21(3)
- def “**school studies**” ins 2006 No. 55 s 21(2)
- def “**senior certificate**” om 2006 No. 55 s 21(1)
- def “**senior statement**” ins 2006 No. 55 s 21(2)
- def “**State preschool centre**” om 2006 No. 39 s 512(2) sch 2
- def “**statutory TAFE institute**” ins 2007 No. 53 s 30 sch
- def “**student account**” om 2006 No. 55 s 21(1)
- def “**student account phase**” om 2006 No. 55 s 21(1)

## **7 List of forms notified or published in the gazette**

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

- Form ASE–1 Version 1—Application for 25th and/or 26th semester of state education**  
pubd gaz 3 November 2006 p 1093
- Form ASE–2 Version 1—Application for further semesters of state education (beyond 26th semester)**  
pubd gaz 3 November 2006 p 1093
- Form CRH–1 Version 1—Continuing registration for home education**  
pubd gaz 3 November 2006 p 1093
- Form DCH–1 Version 1—Disclosure of criminal history form**  
pubd gaz 3 November 2006 p 1093
- Form ECP–1 Version 1—Application for exemption from the compulsory participation phase**  
pubd gaz 3 November 2006 p 1093
- Form ECS–1 Version 1—Application for exemption from compulsory schooling for up to 1 school year (state school)**  
pubd gaz 3 November 2006 p 1093
- Form ECS–2 Version 1—Application for exemption from compulsory schooling for 1 school year or more (state school)**  
pubd gaz 3 November 2006 p 1093
- Form ECS–3 Version 1—Application for exemption from compulsory schooling (nonstate school)**  
pubd gaz 3 November 2006 p 1093
- Form ECS–20 Version 1—Application for exemption from compulsory schooling: Delayed Entry to Year 1**  
pubd gaz 3 November 2006 p 1093

**Form FTE–2 Version 1—Notice about compulsory schooling obligation—failure to enrol**

pubd gaz 3 November 2006 p 1093

**Form FTE–4 Version 1—Warning notice about compulsory schooling obligation—failure to enrol**

pubd gaz 3 November 2006 p 1093

**Form MAS–1 Version 1—Mature age student notice application form**

pubd gaz 3 November 2006 p 1093

**Form RHE–1 Version 1—Application for registration for home education**

pubd gaz 3 November 2006 p 1093

**Form SEF–1 Version 1—Application for student enrolment form**

pubd gaz 3 November 2006 p 1093

**Form STN–1 Version 1—Student transfer note**

pubd gaz 3 November 2006 p 1093

**Form TCS–3 Version 1—Notice about compulsory schooling obligation—failure to attend**

pubd gaz 3 November 2006 p 1093

**Form TCS–4 Version 1—Warning notice about compulsory schooling obligation—failure to attend**

pubd gaz 3 November 2006 p 1093

**Form TCP–3 Version 1—Notice of obligation under compulsory participation phase**

pubd gaz 3 November 2006 p 1093

**Form TCP–4 Version 1—Warning notice about obligation in the compulsory participation phase**

pubd gaz 3 November 2006 p 1093