

WESTERN AUSTRALIA

SCHOOL EDUCATION BILL 1997

ARRANGEMENT

Page

PART 1 — PRELIMINARY

1.	Short title	2
2.	Commencement	2
3.	Objects	3
4.	Definitions	3
5.	Definition of “pre-compulsory education period”	6
6.	Definition of “compulsory education period”	7
7.	Definition of “post-compulsory education period”	8
8.	Notes not part of Act	8

PART 2 — ENROLMENT AND ATTENDANCE

Division 1 — Compulsory education

Subdivision 1 — Enrolment of children of compulsory school age

9.	When enrolment compulsory	9
10.	Ways in which section 9 satisfied	10
11.	Exemption by Minister	10

School Education Bill 1997

Subdivision 2 — Inquiries to check compliance with section 9

12.	Authorized persons	11
13.	Powers of authorized person	11
14.	Certificate of appointment	12
15.	Offence of pretending to be an authorized person	12

Division 2 — Enrolment, all schools

16.	Information to be provided	12
17.	Change of particulars	13
18.	Principal may act on application by one parent	14
19.	Enrolment register	14
20.	Cancellation of enrolment	15
21.	Removal from register	16

Division 3 — Attendance, all schools

22.	Definition	16
23.	Attendance	17
24.	Arrangements alternative to attendance	17
25.	Non-attendance for reasonable cause	19
26.	Referral to a School Attendance Panel where doubtful reasons given about non-attendance	20
27.	Principal may require non-attendance for health reasons	21
28.	Attendance records	22
29.	Employment during school hours	23

Division 4 — Government schools, absence for special observance

30.	Non-attendance for religious or cultural observance	24
31.	Days to which section 30 applies	25

Division 5 — Absentee students

Subdivision 1 — Preliminary

32.	Definitions	25
-----	-------------	----

School Education Bill 1997

Subdivision 2 — School attendance officers

33.	School attendance officers	26
34.	Certificate of appointment	26
35.	Offence of pretending to be a school attendance officer	27

Subdivision 3 — Powers of school attendance officers

36.	Powers of school attendance officers to inquire	27
37.	Offence of obstructing etc.	28

Subdivision 4 — Dealing with non-attendance and enforcing attendance

38.	Breaches of section 23	28
39.	Appointment of School Attendance Panels	29
40.	Referral to School Attendance Panel of persistent breaches of section 23	30
41.	No prosecution unless non-compliance with advice or assistance offered by a School Attendance Panel	32
42.	No prosecution without certificate of Panel or chief executive officer and report of Panel	32
43.	Parent to bring child before court	34
44.	Proof of certain matters	35
45.	Conduct of prosecutions	35

Division 6 — Home education

46.	Definition	36
47.	Application for registration	36
48.	Registration	37
49.	Home educator to inform chief executive officer of certain matters	38
50.	Home education moderators	38
51.	Evaluation of child's educational programme and progress	39
52.	Chief executive officer may give notice of concern and require evaluation	40
53.	Cancellation of registration	40
54.	Review of decision to cancel registration	42

School Education Bill 1997

PART 3 — GOVERNMENT SCHOOLS

Division 1 — Establishment, closure etc.

55.	Establishment	45
56.	Closure and amalgamation	45
57.	Consultation	46
58.	Permanent closure, notice of proposal to be given	47
59.	Permanent closure, when notice of proposal not required	47
60.	Local-intake schools	48

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

61.	Functions of chief executive officer	48
62.	Principal	49
63.	Functions of principal	49
64.	Functions of teachers	51
65.	Functions not to be inconsistent with certain industrial arrangements	52

Division 3 — Educational instruction

66.	Definitions	52
67.	Curriculum	53
68.	Curriculum not to promote certain subject-matter	53
69.	Special religious education	53
70.	Consultation with Council	54
71.	Parent may withdraw child from special religious instruction etc.	54
72.	Principal may exempt child from particular classes	54
73.	Educational programme for children with a disability	55

Division 4 — Enrolment

74.	Application for enrolment	55
75.	Enrolment	56
76.	General residential qualification	57
77.	Enrolment of children below compulsory school age	57

School Education Bill 1997

78.	Enrolment of children of compulsory schoolage at local-intake school	58
79.	Enrolment of children of compulsory school age at other schools	58
80.	Enrolment of children in post-compulsory education period	59
81.	Enrolment of persons beyond their post-compulsory education period	59
82.	Issues arising on certain applications under this Division for enrolment	60
83.	Cancellation where enrolment found to be inappropriate	61
84.	Matters to be considered under sections 82 and 83 about educational programme	62
85.	Chief executive officer may refer to advisory panel	62
86.	Decisions under sections 82 and 83 relating to children with a disability	63
87.	Disabilities Advisory Panels	64

Division 5 — Suspension and exclusion

88.	Definition	66
89.	Breach of school discipline	66
90.	Suspension for breach of school discipline	66
91.	Grounds for exclusion from the school	67
92.	Chief executive officer may exclude from attendance at school	67
93.	School Discipline Advisory Panels	68
94.	Orders that may be made	69
95.	Principal may exclude students above compulsory age	70
96.	Review of decisions under section 95	71

Division 6 — Financial provisions

Subdivision 1 — Fees for instruction and charges

97.	Limitation on matters for which fees for instruction and charges may be imposed	71
98.	Charges for provision of certain materials and services and fees for instruction	72
99.	Overseas students and adult students	73

School Education Bill 1997

100.	Financial hardship	74
101.	Students (other than overseas or adult students) cannot be excluded for non-payment	74
102.	Recovery	74
103.	Optional costs not affected	74

Subdivision 2 — School funds

104.	General Purposes Fund	75
105.	Funds for special purposes	75
106.	Management of school funds	75
107.	What may be credited	76
108.	Bank account	77
109.	Certain provisions not to apply	78
110.	Investment of school funds	78
111.	Closure or amalgamation of school	78

Division 7 — Other management provisions

112.	School year for government schools	79
113.	Disputes and complaints	79
114.	Management and control of school premises	80
115.	Dealing with persons disrupting school premises	81
116.	Dissemination of certain information on school premises	83
117.	Dealings with a parent	84
118.	General management	85

Division 8 — Parent and community involvement

Subdivision 1 — School Councils

119.	Definition	85
120.	Government school to have a Council	85
121.	Exemptions and approvals	86
122.	Constitution of Councils	86
123.	Functions of Councils	88
124.	Minister may approve additional functions for a Council	88

School Education Bill 1997

125.	Incorporated Council may have prescribed additional functions if approved by the Minister	89
126.	Council not concerned in school management	90
127.	Powers of Council	91
128.	Principal to provide support	91
129.	Council to comply with Minister's directions	91
130.	Procedures	91
131.	Protection from liability	91
132.	Minister may dismiss Council	92
133.	Winding up of Council that is incorporated	92
134.	Regulations	93

Subdivision 2 — Parents and Citizens' Associations

135.	Definition	94
136.	Formation of Parents and Citizens' Associations	94
137.	Objects etc.	94
138.	Certain property vested in Minister	95
139.	Incorporation	95
140.	Transitional provision	96
141.	Information to be given to principal	97
142.	Winding up of associations	97
143.	Other associations	98

PART 4 — NON-GOVERNMENT SCHOOLS

Division 1 — Preliminary

144.	Definitions	99
145.	References to chief executive officer	100
146.	Delegation by the chief executive officer	100

Division 2 — Registration of non-government schools

147.	Offence of carrying on unregistered school etc.	101
148.	Offence of false representation	102
149.	Scheme of registration	102
150.	Minister may make advance determination of certain issues	103
151.	Application for registration	103

School Education Bill 1997

152.	Matters to be considered by Minister	104
153.	Grant or refusal of registration	105
154.	Minister to notify decision within 3 months	107
155.	Certificate of registration	107
156.	Period of registration	107
157.	Renewal of registration	108
158.	Amendment of conditions	108
159.	Minister may give directions	109
160.	Cancellation of registration	109
161.	Review of decisions in relation to registration	110

Division 3 — Non-government school systems

Subdivision 1 — Recognition of systems

162.	Recognized school systems	111
163.	Revocation of order	112
164.	Inclusion of a registered school in a school system	112
165.	Withdrawal of a school from a school system	113

Subdivision 2 — System agreements

166.	Minister may make agreements with non-government school systems	113
167.	Contents of a system agreement	114
168.	Termination of a system agreement	115

Division 4 — Inspections and provision of information

169.	Inspection on notice	115
170.	Inspection without notice	116
171.	Proof of authority	118
172.	Offence of obstructing an inspection	118
173.	Notice of change of premises	118
174.	Provision of information by registered schools	118

School Education Bill 1997

Division 5 — Funding

175.	Minister may allocate moneys	119
176.	Orders as to funding	119
177.	Contents of orders	120
178.	Accountability	121

Division 6 — Loans for capital works

179.	Minister may lend money	121
180.	Borrowing by the Minister	122
181.	Money to be credited and charged to operating account	123
182.	Guarantee by the Treasurer	123
183.	Payments under guarantee	124

PART 5 — COMMUNITY KINDERGARTENS

Division 1 — Preliminary

184.	Definition	125
------	------------	-----

Division 2 — Registration of community kindergartens

185.	Scheme of registration	125
186.	Application for registration	126
187.	Matters to be considered by Minister	126
188.	Grant or refusal of registration	127
189.	Minister to notify decision within 3 months	127
190.	Registration	128
191.	Amendment of conditions	128
192.	Age limit on attendance	129
193.	Cancellation of registration	129
194.	Review of decisions in relation to registration	130

School Education Bill 1997

Division 3 — Operation and management of community kindergartens

195.	Minister may give directions	131
196.	Extent of role of governing body as to certain matters	132
197.	Certain staff to be appointed by chief executive officer	132
198.	Functions of kindergarten teachers	132
199.	Curriculum and enrolment	133
200.	Limitation on fees for instruction and charges	134
201.	Management and control of community kindergarten premises	134
202.	Dealing with persons disrupting community kindergarten premises and dissemination of certain information on community kindergarten premises	135
203.	Chief executive officer may allocate moneys	135
204.	Accountability	135
205.	Regulations	136

PART 6 — ADMINISTRATION

Division 1 — The Minister

206.	Definition	137
207.	Minister to be body corporate	137
208.	Property vested in Minister	138
209.	Powers of Minister	138
210.	Treasurer to consider proposals under section 209 (2) (c)	140
211.	Licences for use of certain property	141
212.	Licences for community use of certain property	142
213.	When school fund to receive money paid under certain licences	143
214.	When school fund to receive money paid for advertising or sponsorship	143
215.	Power to exempt	144
216.	Review by Minister or delegate	145
217.	Delegation	146
218.	Subdelegation	146
219.	Documents presumed duly executed	147
220.	Accountability under this Division	147

School Education Bill 1997

Division 2 — The department

221.	Department	147
222.	Chief executive officer	148
223.	Delegation by chief executive officer	148
224.	Minister may give directions to the chief executive officer	149
225.	Chief executive officer may give directions to a principal	149
226.	CEO's Instructions	149

Division 3 — Staff employed in the department

227.	Definitions	150
228.	Categories of staff	150
229.	Provisions applicable to teaching staff, other officers and wages staff	151
230.	Classification of teaching staff	152
231.	Transfer of teacher to another category of employee	152
232.	Teaching staff and other officers, substandard performance and disciplinary matters	153
233.	Employee may be ordered to leave school premises	153

Division 4 — Advisory panels

234.	Advisory panels	155
------	-----------------	-----

PART 7 — MISCELLANEOUS

235.	Confidentiality	156
236.	Legal proceedings	157
237.	Regulations	158
238.	Review of Act	158
239.	Repeal, savings and transitional	158
240.	Consequential amendments	159

School Education Bill 1997

SCHEDULE 1 — TRANSITIONAL PROVISIONS

1.	Definitions	160
2.	<i>Interpretation Act 1984</i> not affected	160
3.	Property vested in Minister	160
4.	Delegations under section 6AA	160
5.	Agreements and licences under section 6A	160
6.	Licences under section 6B	161
7.	Staff	161
8.	Inquiries under section 7C	162
9.	Enrolments	162
10.	Government schools	162
11.	Efficient schools	162
12.	Certain existing pre-school centres continued as registered schools	163
13.	Certain existing care-centres and pre-school centres continued	163
14.	Superannuation of former employees of the W.A. Pre-School Board	163
15.	Notices under section 9A	164
16.	Bank account	164
17.	Registration for home education	164
18.	Directions under section 20A	164
19.	Suspension and exclusion of students	165
20.	School decision-making groups	165
21.	Parents and Citizens' Associations	165
22.	Transitional on repeal of <i>Industrial Relations Act 1979</i> s. 23B	165
23.	Transitional regulations	166

SCHEDULE 2 — CONSEQUENTIAL AMENDMENTS 167

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

(As amended in Committee)

SCHOOL EDUCATION BILL 1997

A BILL FOR

AN ACT to make provision —

- **for education in school or by home education;**
- **for the establishment and operation of government schools and for parent and community involvement in school affairs;**
- **for the registration of non-government schools and the funding of such schools;**
- **for the registration of community kindergartens; and**
- **for administrative responsibilities for school education;**

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

The Parliament of Western Australia enacts as follows:

cl. 1

PART 1 — PRELIMINARY

What this Part is about

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

5 *In particular it deals with —*

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

Short title

1. This Act may be cited as the *School Education Act 1997*.

20 **Commencement**

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

Objects

3. (1) The objects of this Act include the following —
- (a) to recognize the right of every child in the State to receive a school education;
 - 5 (b) to allow that education to be given in a government school, a non-government school or at home;
 - (c) to provide for government schools that meet the educational needs of all children; and
 - 10 (d) to acknowledge the importance of the involvement and participation of a child's parents in the child's education.
- (2) Any person who has a function under this Act is to seek to ensure that the objects stated in subsection (1) are achieved.

Definitions

- 15 4. In this Act, unless the contrary intention appears —
- “chief executive officer”** —
- (a) in Part 4, has the meaning given by section 145; and
 - (b) otherwise has the meaning given by section 222;
- 20 **“child”** means a person who has not reached the age of 18;
- “child of compulsory school age”** means a child who under section 9 (1) is required to be enrolled in an educational programme;
- 25 **“compulsory education period”** has the meaning given by section 6;

cl. 4

“Council”, in relation to a government school, means the Council established under section 120 for the school;

“department” —

- 5
- (a) in Part 4, means the department of the Public Service principally assisting the Minister in the administration of that Part; and
 - (b) otherwise has the meaning given by section 221;

“disability” means a condition —

- 10
- (a) which is attributable to an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment or a combination of those impairments;
 - (b) which is permanent or likely to be permanent;
 - (c) which may or may not be of a chronic or episodic nature; and
 - (d) which results in —
 - 15 (i) a substantially reduced capacity of a person for communication, social interaction, learning or mobility; and
 - 20 (ii) the need for continuing support services;

“educational programme” means an organized set of learning activities designed to enable a student to develop knowledge, understanding, skills and attitudes relevant to the student’s individual needs;

25 **“General Purposes Fund”**, in relation to a school, means the fund referred to in section 104;

“**government school**” means a school established under section 55;

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

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

“**non-government school**” means a school registered under section 153;

10 “**parent**”, in relation to a child, means a person who at law has responsibility —

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

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

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

“**post-compulsory education period**” has the meaning given by section 7;

20 “**pre-compulsory education period**” has the meaning given by section 5;

“**principal**” —

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

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

“**regulations**” means regulations under section 237;

cl. 5

“**school**” means a government school or a non-government school;

“**school fund**” means the General Purposes Fund and a fund referred to in section 105;

5 “**school year**”, in relation to a government school, means the school year determined by order under section 112;

“**student**” means a person who is enrolled at a school;

10 “**teacher**”, in relation to a government school, means a member of the teaching staff;

“**teaching staff**” means persons appointed as such under section 229 (2).

Definition of “pre-compulsory education period”

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

(a) until 31 December 2000 —

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

20 (ii) until the end of the year in which the child reaches the age of 5;

(b) from 1 January 2001 until 31 December 2002 —

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

25 (ii) until the end of the year in which the child reaches the age of 5;

and

- 5
- (c) from 1 January 2003 —
 - (i) from the beginning of the year in which the child reaches the age of 4 years and 6 months; and
 - (ii) until the end of the year in which the child reaches the age of 5 years and 6 months.

Definition of “compulsory education period”

6. The compulsory education period for a child is as follows —
- 10
- (a) until 31 December 2002 —
 - (i) from the beginning of the year in which the child reaches the age of 6; and
 - (ii) until the end of the year in which the child reaches the age of 15;
 - (b) from 1 January 2003 until 31 December 2011 —
 - (i) from the beginning of the year in which the child reaches the age of 6 years and 6 months; and
 - (ii) until the end of the year in which the child reaches the age of 15;
- 15
- and
- (c) from 1 January 2012 —
 - (i) from the beginning of the year in which the child reaches the age of 6 years and 6 months; and
 - (ii) until the end of the year in which the child reaches the age of 15 years and 6 months.
- 20

cl. 7

Definition of “post-compulsory education period”

7. The post-compulsory education period for a person is as follows —

- (a) until 31 December 2011 —
 - 5 (i) from the beginning of the year in which the person reaches the age of 16; and
 - (ii) until the end of the year in which the person reaches the age of 17;
- (b) from 1 January 2012 until 31 December 2013 —
 - 10 (i) from the beginning of the year in which the person reaches the age of 16 years and 6 months; and
 - (ii) until the end of the year in which the person reaches the age of 17;
- 15 and
- (c) from 1 January 2014 —
 - (i) from the beginning of the year in which the person reaches the age of 16 years and 6 months; and
 - 20 (ii) until the end of the year in which the person reaches the age of 17 years and 6 months.

Notes not part of Act

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

PART 2 — ENROLMENT AND ATTENDANCE

What this Part is about

This Part deals with —

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

Division 1 — Compulsory education

Subdivision 1 — Enrolment of children of compulsory school age

When enrolment compulsory

20 **9.** (1) A child is to be enrolled in an educational programme for each year of the compulsory education period for that child.

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

Penalty: \$5 000 and a daily penalty of \$25.

cl. 10

Ways in which section 9 satisfied

10. The duty imposed by section 9 is satisfied in respect of a child by —

- (a) the enrolment of the child at a school; or
- 5 (b) the registration under section 48 of a parent as the child's home educator and the continuation in effect of that registration.

Exemption by Minister

11. (1) The Minister may by instrument —

- 10 (a) exempt a child from section 9 (1) if the Minister is satisfied that it is in the best interests of the child to do so; and
- (b) at any time revoke an exemption.

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

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

(4) The Minister may —

- 20 (a) make the exemption subject to any condition; and
- (b) impose any further condition or vary or revoke a condition at any time.

25 (5) Without limiting the Minister's ability to obtain advice or information, he or she may obtain advice from an advisory panel under section 234 for the purposes of any decision required to be made under this section.

(6) In the case of children enrolled at non-government schools, the Minister may by instrument delegate the powers conferred on him or her by this section to the chief executive officer referred to in section 145.

5 *Subdivision 2 — Inquiries to check compliance with section 9*

Authorized persons

10 **12.** The Minister may authorize any person (“**an authorized person**”) who comes within a class of employees referred to in section 228 (1) who has the required expertise to perform this role to exercise the powers conferred by this Subdivision.

Powers of authorized person

15 **13.** (1) An authorized person may —
 (a) call at any premises used as a dwelling; and
 (b) require any person on the premises appearing to be over the age of 18 to answer any relevant question, whether orally or in writing.

20 (2) A question is relevant only if it is reasonably connected with finding out whether there is living at the premises any child of compulsory school age who is not enrolled in an educational programme.

25 (3) A person to whom a requirement under subsection (1) (b) is directed must not —
 (a) fail to comply with the requirement; or
 (b) in purported compliance give any information that is false or misleading.

Penalty: \$500.

cl. 14

Certificate of appointment

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

5 (2) An authorized person must produce the certificate whenever asked to do so by a person in respect of whom the authorized person is exercising or about to exercise his or her powers.

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

Offence of pretending to be an authorized person

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

15 Penalty: \$5 000 or imprisonment for 6 months.

Division 2 — Enrolment, all schools

Information to be provided

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

- (a) the date of birth of the enrollee;
- (b) the names and usual place of residence of —

- (i) the enrollee;
- (ii) where the enrollee is a child —

- 25 (I) the parents; and
- (II) any adult person, not being a parent, who is responsible for the child;

- (c) where the enrollee is a child, details of any provision in force at law —
 - (i) for the long-term care, welfare and development of the child; or
 - 5 (ii) for the day to day care, welfare and development of the child;
- (d) where applicable, the name of the school at which the enrollee is enrolled or was last enrolled;
- 10 (e) the country of citizenship of the enrollee and, where applicable, whether the enrollee has the right to reside in Australia;
- (f) the vaccination status of the enrollee;
- 15 (g) details of any condition of the enrollee that may call for special steps to be taken for the benefit or protection of the enrollee or other persons in the school; and
- (h) any other information prescribed by the regulations.

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

20 Change of particulars

- 17.** (1) Where there is a change in —
- (a) the place of residence of an enrollee; or
 - (b) the particulars referred to in section 16 (1) (b) or (c) in respect of the enrollee,
- 25 notice of the change is to be given to the principal of the school at which the enrollee is enrolled —
- (c) by a parent of the enrollee;

cl. 18

- (d) in the case of an enrollee who has turned 18 or who is a prescribed child, by the enrollee; or
- (e) by a person whose details have been provided under section 16 (1) (b) (ii) (II).

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

Principal may act on application by one parent

10 **18.** (1) Where a parent lodges a duly completed application for enrolment with a principal, the principal need not enquire —

- (a) whether there is any other person who in relation to the child is within the definition of “parent” in section 4; or
- 15 (b) if there is such a person, whether he or she concurs with the lodging of the application or the information included in it.

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

Enrolment register

20 **19.** A principal of a school must ensure that —

- (a) a register is kept showing, in respect of all students enrolled at the school, the information prescribed by the regulations; and
- 25 (b) particulars recorded in the register are retained for the period prescribed by the regulations.

Cancellation of enrolment

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

- 5
- (a) the enrolment was obtained by the giving of false or misleading information; or
 - (b) section 17 has not been complied with.

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

- 10
- (a) giving notice of the proposed cancellation, and of the reasons for it —
 - (i) to each parent who is shown on the register referred to in section 19 and whose whereabouts are known or can be discovered by reasonable enquiry;
 - 15 (ii) in the case of an enrollee who has turned 18 or who is a prescribed child, to the enrollee; or
 - (iii) to a person whose details have been provided under section 16 (1) (b) (ii) (II);

and

- 20
- (b) giving him or her a reasonable opportunity to show why the enrolment should not be cancelled.

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

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

cl. 21

Removal from register

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

- 5 (a) the principal believes on reasonable grounds that the child has enrolled in another school in this State or elsewhere;
- (b) the principal believes on reasonable grounds that the child is no longer resident in this State;
- 10 (c) an exemption is granted under section 11 in respect of the child;
- (d) a parent of the child is registered under section 48 as the child's home educator;
- (e) the enrolment is cancelled under section 20 or 83; or
- 15 (f) the Minister has authorized the removal on the ground that enquiries to establish the whereabouts of the child have not been successful.

20 (2) In the case of children enrolled at non-government schools, the Minister may by instrument delegate the power of authorization conferred by subsection (1) (f) to the chief executive officer referred to in section 145.

Division 3 — Attendance, all schools

Definition

22. In sections 25, 27 and 29 —

25 “**school**” includes any place to which an arrangement under section 24 applies.

Attendance

- 23.** (1) A student must on the days on which the school is open for instruction —
- (a) either —
 - 5 (i) attend the school at which he or she is enrolled; or
 - (ii) otherwise participate in an educational programme of the school whether at the school or elsewhere,
 - 10 as required by the principal; or
 - (b) comply with an arrangement under section 24.
- (2) Subsection (1) has effect subject to —
- (a) section 25 (which relates to non-attendance for reasonable cause);
 - 15 (b) section 27 (which enables a principal to require non-attendance for health reasons); and
 - (c) section 30 (which allows non-attendance at a government school for a recognized religious or cultural observance).
- 20 (3) Subsection (1) is enforceable under Division 5.

Arrangements alternative to attendance

- 24.** (1) An arrangement in writing may be entered into for a student —
- 25 (a) to attend at some place other than the school at which he or she is enrolled; and
 - (b) there to participate in activities that are part of an educational programme of the school.

cl. 24

- (2) An arrangement under subsection (1) in respect of a student is to be entered into between the principal and —
- (a) any parent of the student who in the opinion of the principal should be a party to the arrangement; or
 - 5 (b) in the case of a student who has turned 18 or who is a prescribed child, the student.
- (3) An arrangement under subsection (1) —
- (a) may provide for the student's attendance —
 - (i) for a particular period of the school year; or
 - 10 (ii) during a particular period in each week of the school year or part of the school year;
 - (b) may be varied by the principal after consultation with the person with whom the arrangement is made; and
 - (c) may be terminated at any time by the principal.
- 15 (4) If the principal decides to terminate an arrangement under subsection (3) (c) he or she is to notify the person with whom the arrangement is made of that decision as soon as is practicable after it is made.
- (5) In this section —
- 20 **“parent”** means —
- (a) the parent or parents who completed the enrolment application for the student;
 - (b) any other person who —
 - (i) according to that application; or

- (ii) to the knowledge of the principal,
comes within the definition of “parent” in
section 4 in relation to the student; and
- 5 (c) a person whose details have been provided under
section 16 (1) (b) (ii) (II).

Non-attendance for reasonable cause

25. (1) In this section —

“**responsible person**”, in relation to a student, means —

- (a) a parent of the student;
- 10 (b) in the case of a student who has turned 18 or
who is a prescribed child, the student; or
- (c) a person whose details have been provided under
section 16 (1) (b) (ii) (II).

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

- (a) if the student is prevented from attending at school, or
from participating in the educational programme
by —
 - 20 (i) temporary physical or mental incapacity; or
 - (ii) any other reasonable cause;
- (b) if a responsible person has notified the principal of the
cause of the student’s non-attendance or
non-participation —
 - 25 (i) as soon as is practicable; and

cl. 26

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

and

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

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

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

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

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

20 (i) as soon as is practicable; and

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

Referral to a School Attendance Panel where doubtful reasons given about non-attendance

25 **26.** (1) This section applies where a principal is of the opinion that the reasons notified under section 25 (2) (b) in respect of a child of compulsory school age have persistently —

(a) been not genuine; or

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

- (2) Where this section applies to a child —
- (a) the principal may refer the child's case to a School Attendance Panel under section 39;
 - (b) a Panel may —
 - 5 (i) inquire into the child's attendance record;
 - (ii) give such advice and assistance to the child and to his or her parents as it thinks fit; and
 - (iii) do any of the things referred to in section 40 (3) and (4) for those purposes;
 - 10 and
 - (c) a Panel is to prepare a written report on the child's case setting out any advice or assistance given by the Panel and give a copy of the report to the school's principal and —
 - 15 (i) to a parent of the child;
 - (ii) if the child is a prescribed child, to the child; or
 - (iii) to a person whose details have been provided under section 16 (1) (b) (ii) (II).

Principal may require non-attendance for health reasons

- 20 **27.** (1) The principal of a school may require that a student —
- (a) not attend the school; or
 - (b) not participate in an educational programme of the school,
- 25 during any day on which the student or any other student at the school is suffering from a medical condition to which this section applies.

cl. 28

(2) This section applies to a medical condition that, on advice from the Executive Director of Public Health or a registered medical practitioner, the principal considers may be infectious, contagious or otherwise harmful to the health of persons who are
5 at the school or participating in an educational programme of the school.

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

- (a) to a parent of the student;
- 10 (b) in the case of a student who has turned 18 or who is a prescribed child, to the student; or
- (c) to a person whose details have been provided under section 16 (1) (b) (ii) (II).

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

Penalty: \$500.

Attendance records

28. (1) A principal of a school must ensure —

- 20 (a) that records are kept showing for each day whether a student —
 - (i) attended, or participated in an educational programme of, the school; or
 - (ii) failed to so attend or participate;and
- 25 (b) that particulars so recorded are retained for the period prescribed by the regulations.

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

- (a) may be kept in electronic form; but
- (b) must be capable of being reproduced in written form.

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

Employment during school hours

10 **29.** (1) A person must not employ or permit to be employed a child of compulsory school age during the hours when the child is required to —

- (a) attend school; or
- (b) otherwise participate in an educational programme of a school.

Penalty: \$5 000.

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

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

- 20
- (a) is authorized by an arrangement under section 24; or
 - (b) is included in the educational programme applicable to the child and is consistent with the terms and conditions of the programme.

cl. 30

Division 4 — Government schools, absence for special observance

Non-attendance for religious or cultural observance

- 30.** (1) A student is excused from —
- 5 (a) attendance at a government school at which he or she is enrolled; or
- (b) participation in an educational programme of the school,
- 10 on a day, or during a period, that under section 31 is recognized as having religious or cultural significance for the student or the student's parents.
- (2) Subsection (1) does not apply unless before the day, or the beginning of the period, in question the principal has been notified that the student will not attend or participate on that
- 15 day or during that period.
- (3) A notification to a principal under subsection (2) may be given in any way that is determined by the principal to be acceptable, either generally or in a particular case.
- (4) A notification under subsection (2) is to be given —
- 20 (a) by a parent of the student;
- (b) in the case of a student who has turned 18 or who is a prescribed child, by the student; or
- (c) by a person whose details have been provided under section 16 (1) (b) (ii) (II).
- 25 (5) Despite subsections (1) and (2), where it is not reasonably practicable for a notice to be given under subsection (2) a student is excused as mentioned in subsection (1) if the notice is given as soon as is reasonably practicable after the day or the period in question.

(6) In subsection (1) (a) —

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

Days to which section 30 applies

5 **31.** (1) The regulations are to prescribe —

(a) days or periods; or

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

that are recognized for the purposes of section 30.

10 (2) The Minister may at the request —

(a) of a parent of a student;

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

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

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

Division 5 — Absentee students

Subdivision 1 — Preliminary

20 **Definitions**

32. In this Division, unless a contrary intention appears —

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

cl. 33

“school attendance officer” means an officer designated as such under section 33;

“School Attendance Panel” means a School Attendance Panel under section 39.

5

Subdivision 2 — School attendance officers

School attendance officers

33. The Minister may designate as a school attendance officer —

- 10 (a) any person who comes within a class of employees referred to in section 228 (1) (a) or (c);
- (b) any person who is employed in the department principally assisting the Minister in the administration of Part 4; and
- 15 (c) a member of the teaching staff of a government or a non-government school.

Certificate of appointment

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

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

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

Offence of pretending to be a school attendance officer

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

Penalty: \$5 000 or imprisonment for 6 months.

5 *Subdivision 3 — Powers of school attendance officers*

Powers of school attendance officers to inquire

36. (1) A school attendance officer may —

- (a) stop and detain a person whom he or she reasonably believes to be an absentee student; and
- 10 (b) enter any premises to which the public has access, without paying the charge, if any, for access to the premises, for the purpose of checking whether any absentee student is on the premises.

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

- 15 (a) may be questioned by a school attendance officer as to whether the person is an absentee student; and
- (b) may be required to inform a school attendance officer of —
 - (i) his or her full name and address;
 - 20 (ii) his or her age; and
 - (iii) the name of the school at which he or she is enrolled.

cl. 37

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

(a) fail to comply with the requirement; or

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

Penalty: \$200.

Offence of obstructing etc.

10 **37.** A person must not resist, hinder or obstruct a school attendance officer who is exercising or attempting to exercise any power under this Subdivision.

Penalty: \$1 000.

Subdivision 4 — Dealing with non-attendance and enforcing attendance

Breaches of section 23

15 **38.** (1) A parent of a child of compulsory school age must ensure that section 23 is complied with by the child.

Penalty: \$1 000 and a daily penalty of \$25.

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

20 (2) A child of compulsory school age must comply with section 23.

Penalty: \$10.

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

Appointment of School Attendance Panels

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

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

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

(a) comes within a class of employees referred to in section 228 (1) (a) or (c); or

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

(4) If the chairperson of a Panel is a person who is —

(a) a member of the teaching staff; or

(b) the principal of, or a teacher employed at, a non-government school,

20 the Panel cannot deal with the case of a student who is enrolled at the school at which the person is employed.

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

(6) Subject to the Minister’s directions, the child and parents referred to in subsection (5) are not to be represented by another person before the Panel unless the Panel otherwise determines

cl. 40

on the ground that the process will not work effectively without that representation.

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

5 (8) The Minister may —

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

10 (b) determine the amount of any such payments on the recommendation of the Minister for Public Sector Management.

Referral to School Attendance Panel of persistent breaches of section 23

15 **40.** (1) Where a child of compulsory school age enrolled at a school has been persistently in breach of section 23, the child's case may be referred to a School Attendance Panel by —

(a) the principal of the school;

(b) a school attendance officer; or

(c) the chief executive officer or the chief executive officer referred to in section 145, as is relevant to the case.

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

(a) inquire into the reasons for the child's failure to comply with section 23;

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

- (3) The chairperson may by notice in writing —
- (a) request the attendance of a child and his or her parents at a place and time specified in the notice; and
 - 5 (b) request any person to produce at a place and time specified in the notice any document or record that is in the possession or under the control of that person.
- (4) The Panel may —
- 10 (a) inspect any document or record produced and retain it for such reasonable period as it thinks fit, and make copies of it or any of its contents; and
 - (b) request any person to answer any question put to him or her.
- (5) The Panel is to prepare a written report on the child's case setting out any advice or assistance given by the Panel and recommendations about the way in which the child had been dealt with and give a copy of the report —
- (a) to a parent of the child;
 - (b) if the child is a prescribed child, to the child;
 - 20 (c) to a person whose details have been provided under section 16 (1) (b) (ii) (II);
 - (d) to the school's principal;
 - (e) if the child is enrolled at a government school, to the chief executive officer;
 - 25 (f) if the child is enrolled at a non-government school and on the request of the chief executive officer referred to in section 145, to that chief executive officer; and

cl. 41

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

No prosecution unless non-compliance with advice or assistance offered by a School Attendance Panel

5 **41.** (1) Where a child's case has been referred to a School Attendance Panel under section 26 or 40 and the Panel has given advice or offered assistance under section 26 (2) (b) or 40 (2) (b), a complaint of an offence against section 38 is not to be made unless there has been failure to follow the advice or accept the
10 assistance.

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

No prosecution without certificate of Panel or chief executive officer and report of Panel

20 **42.** (1) A complaint of an offence against section 38 (1) or 38 (2) is not to be made in respect of a child unless a certificate has been given that —

- (a) all reasonably practicable steps have been taken to secure compliance with section 23 by the child; but
- (b) breaches of the section have continued.

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

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

(b) by —

- (i) the chief executive officer referred to in section 145 in the case of a child enrolled at a non-government school; or
- 5 (ii) the chief executive officer referred to in section 222 in the case of a child enrolled at a government school.

(3) If a child is a ward for the purposes of the *Child Welfare Act 1947*, a certificate under subsection (1) is to be given by the
10 chief executive officer referred to in section 222 or if the child's case has been referred to a School Attendance Panel, by both of the chief executive officer and the Panel.

(4) If a School Attendance Panel gives a certificate under subsection (1), the Panel is to also prepare a report on —

- 15 (a) the child's educational background; and
- (b) the steps that have been taken to secure compliance with section 23 by the child.

(5) In any proceedings under section 38 the certificate given under subsection (1) and, if a report is required under
20 subsection (4), a copy of the report are to be given to the court.

(6) Where in any proceedings a document is produced purporting to be —

- (a) a certificate given under subsection (1); or
 - (b) a report prepared by a Panel under subsection (4),
- 25 the court is to presume, unless the contrary is shown, that the document is such a certificate or report.

cl. 43

Parent to bring child before court

43. (1) In any proceedings for an offence against section 38 (1) in respect of a child an authorized person may give a notice to a parent of the child requiring the parent —

- 5 (a) to bring the child to the court at a time and place specified in the notice; and
- (b) to keep the child in attendance at the court until he or she is permitted to leave by the court or an authorized person.
- 10 (2) A person to whom a notice is given under subsection (1) must comply with the notice.

Penalty: \$500.

(3) In subsection (1) —

“authorized person” means —

- 15 (a) a school attendance officer; or
- (b) a person who —
- (i) comes within a class of employees referred to in section 228 (1) (a) or (c); or
- (ii) is employed in the department principally assisting the Minister in the administration of Part 4,
- 20
- and who is authorized by the Minister for the purposes of this section.

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

Proof of certain matters

44. In a complaint of an offence against section 38 any of the following statements in relation to a particular case are to be taken to be proved unless the contrary is shown —

- 5 (a) that a child was enrolled at a school on any day or days;
- (b) that on any day or days a school was open for instruction;
- (c) that a child enrolled at a school —
- 10 (i) did not —
- (I) attend the school; or
- (II) otherwise participate in an educational programme of the school, as required by the principal; or
- 15 (ii) did not comply with an arrangement under section 24;
- (d) that a person is a parent of a child.

Conduct of prosecutions

- 20 **45.** (1) Prosecutions for offences against section 38 may be conducted by any person who —
- (a) comes within a class of employees referred to in section 228 (1) (a) or (c); or
- (b) is employed in the department principally assisting the Minister in the administration of Part 4,
- 25 and who is authorized by the Minister to do so.

cl. 46

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

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

Division 6 — Home education

Definition

10 **46.** In this Division —

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

Application for registration

15 **47.** (1) A parent of a child of compulsory school age who wishes to make an application for registration as the child’s home educator is to apply to the chief executive officer and provide the following information to the extent that he or she is asked to do so —

- (a) the child’s date of birth;
- 20 (b) the names and usual place of residence of —
 - (i) the child; and
 - (ii) the child’s parents;
- (c) the place at which the educational programme will
25 primarily be delivered if different from the child’s usual place of residence;

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

(e) any other information prescribed by the regulations.

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

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

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

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

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

(b) otherwise complying with section 23.

20 Registration

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

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

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

cl. 49

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

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

Home educator to inform chief executive officer of certain matters

10 **49.** A child's home educator is to inform the chief executive officer —

- (a) of any change to the details provided in the application under section 47 (1); or
- (b) if the child is enrolled at a school,

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

15 **Home education moderators**

50. (1) The chief executive officer —

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

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

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

5 Evaluation of child's educational programme and progress

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

- 10 (a) within 3 months of the day of the home educator's registration in respect of the child; and
- (b) at least once in each 12 month period following that registration.

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

(3) An evaluation is to be made —

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

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

cl. 52

Chief executive officer may give notice of concern and require evaluation

- 52.** (1) If the chief executive officer has a concern about a child's educational progress, the chief executive officer may —
- 5 (a) give the child's home educator written notice of the concern and the reasons for the concern; and
- (b) arrange for an evaluation to be made on 7 days' notice to the home educator for the purpose of ascertaining whether the concern has been adequately addressed.
- 10 (2) An evaluation under subsection (1) is to be made —
- (a) within the notice period or as soon as possible after the expiry of the notice period, but otherwise at the time that is agreed between the home educator and the home education moderator; and
- 15 (b) at the place that is the usual place for the child's educational programme to be undertaken unless the home educator objects, in which case the evaluation is to be made at the place that is agreed between the home educator and the home education moderator.
- 20 (3) Following an evaluation under subsection (1), the home education moderator is to prepare a report about whether the concern has been adequately addressed and provide a copy of the report to the home educator and to the chief executive officer.

Cancellation of registration

- 25 **53.** (1) The chief executive officer may cancel a home educator's registration under section 48 in respect of a child if —
- (a) in the opinion of the chief executive officer, the child's educational progress is not satisfactory;

- (b) the home educator has not arranged an evaluation required under section 51 (1) (a) or (b) in respect of the child;
- 5 (c) the home educator does not agree to an evaluation required under section 52 (1) (b) in respect of the child from occurring in accordance with section 52 (2);
- (d) a home education moderator has been hindered or obstructed in an evaluation required under section 51 (1) (a) or (b) or section 52 (1) (b); or
- 10 (e) the home educator has not complied with section 49 in respect of the child.

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

- 15 (a) whether the child's educational progress is in accordance with —
 - (i) the curriculum framework under the *Curriculum Council Act 1997*; or
 - 20 (ii) any condition to which an exemption under section 11 of that Act is subject;
- (b) the effect of the physical learning environment on the child's educational progress;
- (c) any other matter which, in the opinion of the chief executive officer, is relevant to the child's education.

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

cl. 54

- (4) The notice must set out a cancellation period that is —
- (a) at least until 1 January in the year following the year in which the cancellation takes effect; and
 - (b) not longer than 12 months from the day on which the cancellation takes effect.
- 5
- (5) A decision that a home educator's registration be cancelled is not to be given effect to —
- (a) until the time for applying under section 54 (1) has passed; and
 - (b) if an application is made under section 54 (1), until it has been determined.
- 10

Review of decision to cancel registration

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

15

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

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

20

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

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

25

(6) The Minister after considering the report may confirm, vary or reverse the chief executive officer's decision and is to give

written notice to the applicant of the Minister's decision and written reasons for that decision.

(7) In this section —

5 **“Home Education Advisory Panel”** means an advisory panel under section 234 established for the purposes of subsection (3) of this section.

cl. 54

PART 3 — GOVERNMENT SCHOOLS

What this Part is about

This Part enacts provisions that apply only to government schools. In particular it deals with —

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

Division 1 — Establishment, closure etc.

Establishment

5 **55.** (1) The Minister may establish such government schools as the Minister considers necessary for the provision of public education.

(2) The Minister may —

- (a) assign a name and classification to; and
- (b) change the name or classification of,

a government school.

10 Closure and amalgamation

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

- (a) amalgamate 2 or more government schools; and
- (b) close any government school either temporarily or permanently.

15

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

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

20

- (a) change the classification of the school under section 55 (2); or
- (b) take action under subsection (1) in relation to the school.

cl. 57

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

Consultation

- 5 **57.** (1) If the Minister proposes to amalgamate 2 or more government schools or to close any government school permanently, the Minister is to consult with —
- 10 (a) the parents of the students who are enrolled at the school or schools affected by the proposal, in relation to the matters referred to in subsection (2);
- (b) the Council of each school affected by the proposal, in relation to the matters referred to in subsection (2); and
- 15 (c) each Parents and Citizens' Association formed under section 136 which would be wound up as an effect of the proposal, in relation to the disposal of property acquired by the association.
- (2) The matters for consultation under subsections (1) (a) and (b) are —
- 20 (a) alternative arrangements for the enrolment of students who are affected by the proposal and the appropriateness of the arrangements;
- (b) the provision of educational programmes for the students who are affected by the proposal;
- 25 (c) the disbursement of any assets realized as a result of the proposal; and
- (d) any other relevant matter.

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

5 **Permanent closure, notice of proposal to be given**

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

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

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

15 (b) the Minister is sooner satisfied that —

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

(ii) there are exceptional circumstances which justify closure,

20 before the period of 12 months expires.

(3) The Minister may satisfy himself or herself as to a matter mentioned in subsection (2) (b) in any way that he or she thinks appropriate, and the Minister's decision on the matter is not liable to be challenged, reviewed or called in question by a court.

Permanent closure, when notice of proposal not required

59. The Minister may by order published in the *Government Gazette* permanently close a government school under section 56, without complying with section 57 or 58, if he or she is of the

cl. 60

opinion that the safety or welfare of teachers or students at the school may be at risk if the school is not closed as soon as possible.

Local-intake schools

5 **60.** (1) The chief executive officer may by order published in the *Government Gazette* —

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

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

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

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

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

(b) their intake areas,

as at a specified day.

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

Functions of chief executive officer

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

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

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

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

(a) do not affect any other function —

5 (i) given to the chief executive officer by this Act; or
(ii) delegated to the chief executive officer by the Minister under section 217;

(b) have effect subject to this Act; and

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

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

Principal

15 **62.** (1) Every government school is to have a principal, that is a person appointed under section 229 (2) to be in charge of the school.

20 (2) Except with the approval of the Minister, a person is not to be so appointed unless he or she is classified as a school administrator under section 230.

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

Functions of principal

25 **63.** (1) The functions of the principal of a government school are —

(a) to provide educational leadership in the school;

cl. 63

- (b) to have responsibility for the day to day management and control of the school, including all persons on the school premises;
- (c) to ensure the safety and welfare of students —
- 5 (i) on the school premises; and
(ii) away from the school premises but on school activities,
so far as that can reasonably be done;
- 10 (d) to see that instruction provided in the school is in accordance with the requirements of —
- (i) the *Curriculum Council Act 1997*; and
(ii) any determination under section 67;
- 15 (e) to establish a plan for the school setting out its objectives and how the objectives and priorities will be achieved;
- (f) to monitor and report on the school's performance in relation to the plan referred to in paragraph (e);
- (g) to promote cooperation with the local community;
- (h) to encourage innovation in educational practice; and
- 20 (i) to perform any other prescribed function assigned to the principal by the chief executive officer.
- (2) The principal of a government school has the powers necessary for the performance of his or her functions.
- (3) The functions set out in subsection (1) —
- 25 (a) do not affect any other function given or delegated to a principal by or under this Act; and

- 5
- (b) have effect —
 - (i) within the limits of the powers vested in the principal; and
 - (ii) subject to this Act and the direction and control of the chief executive officer.

Functions of teachers

64. (1) The functions of a teacher in a government school are —
- 10
- (a) to foster and facilitate learning in students;
 - (b) to give competent instruction to students in accordance with —
 - (i) the curriculum;
 - (ii) standards determined by the chief executive officer; and
 - 15 (iii) the school's plan referred to in section 63 (1) (e),
- and to undertake the preparation necessary to do so;
- (c) to undertake regular evaluation and reporting of the progress of students within the terms of the school plan referred to in section 63 (1) (e);
 - 20 (d) to be answerable to the principal for the educational achievement of students under his or her instruction;
 - (e) to supervise students and to maintain proper order and discipline on their part;
 - 25 (f) to carry out administrative duties to meet organizational requirements relevant to the teacher's functions; and
 - (g) to perform any other prescribed function assigned by the chief executive officer.

cl. 65

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

- (a) this Act;
- (b) the instructions of the chief executive officer; and
- 5 (c) the direction and control of the principal.

Functions not to be inconsistent with certain industrial arrangements

10 **65.** Nothing in section 63 (1) (h) or 64 (1) (g) or section 64 (2) (b) or (c) enables the chief executive officer or a principal to assign a function or give an instruction or direction that is inconsistent with a term or condition of service referred to in section 229 (3).

Division 3 — Educational instruction

Definitions

15 **66.** In this Division —

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

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

Curriculum

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

Curriculum not to promote certain subject-matter

10 **68.** (1) The curriculum and teaching in government schools is not to promote —

- (a) any particular religious practice, denomination or sect;
- (b) any particular political party;
- (c) any commercial goods, product or service; or
- (d) the case of a party to an industrial dispute.

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

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

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

Special religious education

20 **69.** (1) Special religious education may be provided to students in government schools in accordance with provisions made by the regulations.

(2) Subject to the regulations, the principal of a government school may allow time for the special religious education of

25 students in the school, but the total number of hours so allowed in a school year is not to exceed 40.

cl. 70

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

5 Consultation with Council

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

- 10
- (a) a general policy concerning the use in school activities of prayers, songs and material referred to in section 68 (2) (b); and
 - (b) the implementation of section 69 (2).

Parent may withdraw child from special religious instruction etc.

15 **71.** (1) A parent of a child at a government school may notify the principal in writing that the child is not to —

- (a) receive any special religious education; or
- (b) attend that part of a school activity at which material referred to in section 68 (2) (b) is used.

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

Principal may exempt child from particular classes

25 **72.** (1) A parent of a child at a government school may in writing request the principal to grant an exemption for the child from attendance at classes at which a particular part of a course of study is taught.

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

- (a) is made on the grounds of conscientious objection; and
 - 5 (b) satisfies any requirements contained in the CEO's Instructions under section 226 in respect of the granting of exemptions under this section.
- (3) An exemption under this section —
- (a) may be granted subject to conditions; and
 - 10 (b) may be revoked if any condition is not observed.

Educational programme for children with a disability

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

- (a) consult with the child's parents; and
- 15 (b) take into account the wishes of the child's parents,

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

- (2) The content and implementation of the educational programme for a child with a disability is to be decided by the principal subject to the direction and control of the chief executive officer.
- 20

Division 4 — Enrolment

Application for enrolment

- 25 **74.** (1) A person who wishes to enrol a child at a government school is to lodge a completed application for enrolment with the principal of a government school at which the child is eligible to be enrolled under this Division.

cl. 75

(2) In subsection (1) —

“person”, in relation to a child, means —

- (a) a parent of the child;
- (b) if the child is a prescribed child, the child; or
- 5 (c) a person whose details have been provided under section 16 (1) (b) (ii) (II).

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

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

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

15 Enrolment

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

- (a) an application is duly made under section 74; and
- 20 (b) the child is entitled under this Division to be enrolled at the school.

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

- (a) the child is already enrolled at a school; and
- 25 (b) the period of attendance at the school to which the application relates is likely to be less than 4 weeks.

(3) In this section and in section 76 —

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

General residential qualification

5 **76.** (1) A child is not entitled to be enrolled at a government school unless —

- (a) the usual place of residence of the child is in the State; and
- (b) the child is entitled to reside permanently in Australia.

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

Enrolment of children below compulsory school age

15 **77.** A child is entitled to be enrolled at a particular government school for each year in which the child’s pre-compulsory education period falls if —

- (a) there is available for the child at that school —
 - (i) an appropriate educational programme; and
 - 20 (ii) classroom accommodation;
- and
- (b) the enrolment would conform with other criteria prescribed by the regulations for the purposes of this section.

cl. 78

Enrolment of children of compulsory school age at local-intake school

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

- 5 (a) his or her usual place of residence is in the intake area for that school; and
- (b) an appropriate educational programme is available for the child at that school.

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

- (a) there is available for the child at that school —
- (i) an appropriate educational programme; and
- (ii) classroom accommodation;
- 15 and
- (b) the enrolment would conform with any other criteria prescribed by the regulations for the purposes of this subsection.

20 Enrolment of children of compulsory school age at other schools

79. A child of compulsory school age is entitled to be enrolled at a particular government school that is not a local-intake school if —

- (a) there is available for the child at the school —
- 25 (i) an appropriate educational programme; and
- (ii) classroom accommodation;
- and

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

Enrolment of children in post-compulsory education period

80. A child whose post-compulsory education period falls in a year is entitled to be enrolled at a particular government school for that year if —

- (a) there is available for the child at that school —
 - (i) an appropriate educational programme; and
 - (ii) classroom accommodation;and
- (b) the enrolment would conform with other criteria prescribed by the regulations for the purposes of this section.

Enrolment of persons beyond their post-compulsory education period

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

- (2) An approval under subsection (1) —
 - (a) must be granted in accordance with any matter that is prescribed by the regulations for the purposes of this subsection; and
 - (b) may be granted subject to compliance with any condition that is prescribed by the regulations for the purposes of this subsection.

cl. 82

Issues arising on certain applications under this Division for enrolment

82. (1) This section applies to a child in respect of whom an application for enrolment has been made under section 74 but who has not been enrolled in accordance with the application.

(2) If in relation to a child any question arises under section 76, 77, 78, 79 or 80 as to whether —

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

(i) in the State; or

10 (ii) in a particular intake area;

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

(c) classroom accommodation is available; or

(d) any other prescribed criterion is satisfied,

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

(3) Where the chief executive officer decides that —

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

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

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

(d) any other prescribed criterion is not satisfied in relation to the child,

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

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

Cancellation where enrolment found to be inappropriate

5 **83.** (1) This section applies to a child who is enrolled at a government school.

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

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

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

the chief executive officer may —

15 (c) cancel the enrolment; and

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

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

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

(i) to a parent of the child;

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

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

and

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

cl. 84

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

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

Matters to be considered under sections 82 and 83 about educational programme

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

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

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

(c) the effect of the child's —

(i) behaviour; or

20 (ii) disability or other condition, if any,

on the child's participation in the programme.

Chief executive officer may refer to advisory panel

25 **85.** Without limiting the chief executive officer's ability to obtain advice or information, he or she may obtain advice from an advisory panel under section 234 for the purposes of any decision required to be made under section 82 or 83.

Decisions under sections 82 and 83 relating to children with a disability

5 **86.** (1) Before deciding under section 82 whether an educational programme at a school is available or is appropriate for a child with a disability, or under section 83 whether an appropriate educational programme can no longer be provided at a school for a child with a disability, the chief executive officer is to —

- (a) consult with the child's parents; and
- 10 (b) take into account the wishes of the child's parents, in addition to the matters specified in section 84.

(2) If the chief executive officer decides —

- 15 (a) under section 82 that an educational programme at a school is not available or is not appropriate for a child with a disability; or
- (b) under section 83 that an appropriate educational programme can no longer be provided at a school for a child with a disability,

20 the chief executive officer is to give written notice to a parent of the child of the decision and written reasons for the decision.

(3) A decision referred to in subsection (2) is not to be given effect to —

- (a) until the time for applying under subsection (4) has passed; and
- 25 (b) if an application is made, until it has been determined,

and a child's enrolment at a school is to continue until a decision referred to in subsection (2) (b) takes effect.

cl. 87

(4) A parent of the child may apply in writing to the chief executive officer for a review of a decision referred to in subsection (2).

5 (5) The application is to be made within 28 days after the applicant received written notice of the decision.

(6) Within 90 days of the chief executive officer receiving an application made under subsection (4) —

(a) the chief executive officer is to refer the matter to a Disabilities Advisory Panel under section 87; and

10 (b) the Panel is to examine the matter and report to the chief executive officer with its recommendation.

(7) The chief executive officer is to provide the Disabilities Advisory Panel with any information or material relating to the child's enrolment that is requested by the Panel and that is in
15 the possession or control of the chief executive officer.

(8) The chief executive officer is, within 21 days after receiving the report, to give the applicant a copy of the report of the Disabilities Advisory Panel.

(9) The chief executive officer after considering the report
20 may confirm, vary or reverse the decision and, within 21 days after receiving the report, is to give written notice to the applicant of the subsequent decision and written reasons for that decision.

Disabilities Advisory Panels

25 **87.** (1) The Minister is to appoint a Disabilities Advisory Panel (“**a Panel**”), consisting of not less than 3 persons,

whenever it is necessary for the purposes of section 86 (6) or 92 (2) (b).

(2) A member of a Panel for a particular matter is to be a person —

- 5 (a) who has such experience, skills, attributes or qualifications as the Minister considers appropriate to the case of the child to whom the matter relates; and
- (b) who is not an employee within a class referred to in section 228 (1).

10 (3) The Minister is to appoint one of the members of a Panel to be the chairperson.

 (4) The Minister may give directions in writing to a Panel as to its procedure and a Panel is to give the applicant an opportunity to be heard, but otherwise a Panel may determine its
15 own procedure.

 (5) Subject to the Minister's directions, the applicant is not to be represented by another person before the Panel unless the Panel otherwise determines on the ground that the process will not work effectively without that representation.

20 (6) The chief executive officer is to provide a Panel with such support services as it may reasonably require.

 (7) The Minister may —

- (a) direct that the members of a Panel are to be paid remuneration or allowances or both; and
- 25 (b) determine the amount of any such payments on the recommendation of the Minister for Public Sector Management.

cl. 88

Division 5 — Suspension and exclusion

Definition

88. In this Division —

- 5 (a) references to attendance in relation to a school include participation in an educational programme of the school; and
- (b) references to an educational programme include an arrangement to which section 24 applies.

Breach of school discipline

- 10 **89.** For the purposes of this Division a breach of school discipline is any act or omission that impairs the good order and proper management of the school.

Suspension for breach of school discipline

- 15 **90.** (1) The principal of a government school may suspend from attendance at the school a student who, in the principal's opinion, has committed a breach of school discipline but the principal cannot suspend a student for longer than the period prescribed by the regulations.

- 20 (2) The power conferred by subsection (1) is to be exercised in accordance with the regulations.

- 25 (3) The power conferred by subsection (1) may be exercised by a person who, or a person in a class of persons which, is authorized by the principal of the school to exercise the power if the principal is absent from duty or is otherwise unable to exercise the power.

Grounds for exclusion from the school

91. For the purposes of this Division a student may be excluded from attendance at a government school if —

- 5 (a) he or she has committed a breach of school discipline in circumstances that —
- (i) have adversely affected or threaten the safety of any person who is on the school premises or participating in an educational programme of the school; or
- 10 (ii) have caused or are likely to result in damage to property;
- or
- (b) his or her behaviour has disrupted the educational instruction of other students.

15 **Chief executive officer may exclude from attendance at school**

92. (1) If the principal of a government school is of the opinion that there are grounds under section 91 for the exclusion of a student from attendance at the school, the principal may —

- 20 (a) recommend to the chief executive officer that the chief executive officer exercise his or her powers under section 94; and
- (b) put before the chief executive officer such information as the principal thinks appropriate.
- 25 (2) The chief executive officer is to refer the recommendation and other information —
- (a) to a School Discipline Advisory Panel under section 93; or

cl. 93

- (b) in the case of a child with a disability who is the subject of a recommendation for exclusion on grounds under section 91 (b), to a Disability Advisory Panel under section 87,
- 5 which is to examine the matter and report to the chief executive officer.
- (3) A reference in section 87 to the applicant is to be treated, for the purposes of subsection (2) (b), as a reference to a parent of the child with a disability.
- 10 (4) On receipt of the report the chief executive officer may, having regard to —
- (a) the material referred to in subsections (1) and (2); and
 - (b) any other information before the chief executive officer,
- 15 make an order under section 94 if he or she is satisfied that the student may be excluded in terms of section 91.

School Discipline Advisory Panels

- 20 **93.** (1) The Minister is to appoint a School Discipline Advisory Panel (“**a Panel**”), consisting of not less than 3 persons, whenever it is necessary for the purposes of section 92 (2) (a).
- (2) The members of a Panel for a particular case —
 - (a) are to be persons who have such experience, skills, attributes or qualifications as the Minister considers appropriate to that case; and
 - 25 (b) are to include at least one person who is not an employee within a class referred to in section 228 (1).

(3) The Minister is to appoint one of the members of a Panel to be the chairperson but the appointee is not to be an employee within a class referred to in section 228 (1).

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

10 (5) Subject to the Minister's directions, the child and parents referred to in subsection (4) are not to be represented by another person before the Panel unless the Panel otherwise determines on the ground that the process will not work effectively without that representation.

(6) The chief executive officer is to provide a Panel with such support services as it may reasonably require.

15 (7) The Minister may —

- (a) direct that the members of a Panel (other than an employee as defined in section 3 (1) of the *Public Sector Management Act 1994*) are to be paid remuneration or allowances or both; and
- 20 (b) determine the amount of any such payments on the recommendation of the Minister for Public Sector Management.

Orders that may be made

25 **94.** (1) The orders that may be made by the chief executive officer are —

- (a) an order excluding the student from normal attendance at the school but directing him or her to attend the school for the purposes specified in the order;
- 30 (b) an order completely excluding the student from attending the school;

cl. 95

(c) an order directing the student to attend a specified government school or to participate in a specified educational programme;

5 (d) an order determining the educational instruction that the student is to be given,

or a combination of 2 or more of those orders.

(2) If an order is made under subsection (1) (a), (b) or (c) the chief executive officer is to consider making, and if necessary make, an order under subsection (1) (d) in conjunction with the
10 other order.

(3) An order under subsection (1) —

(a) may be expressed to have effect for a specified period; and

15 (b) may at any time be revoked or amended by further order made by the chief executive officer.

Principal may exclude students above compulsory age

95. (1) The principal of a government school may exclude from attendance at the school —

(a) a student who is enrolled under section 80 or 81 if —

20 (i) the student's attendance at the school is not satisfactory;

(ii) the student is not participating in the educational programme of the school in a way that is of benefit to his or her educational progress; or
25

(iii) the student has failed to comply with a requirement of any applicable code of conduct for students at the school;

and

(b) a student who is enrolled under section 81 if he or she has failed to comply with any condition imposed by the chief executive officer under that section.

5 (2) The powers in this section are in addition to the other powers conferred by this Division.

Review of decisions under section 95

96. (1) A student who is excluded from attendance at a school under section 95 may apply in writing to the chief executive officer for a review of the decision.

10 (2) A review is limited to determining whether fair and proper procedures were followed by the principal in making the decision.

(3) The application is to be made within 7 days after the student received notice in writing of the decision.

15 (4) The chief executive officer, after reviewing the decision in terms of subsection (2), may confirm, vary or reverse it.

Division 6 — Financial provisions

Subdivision 1 — Fees for instruction and charges

20 **Limitation on matters for which fees for instruction and charges may be imposed**

97. Except as provided by section 98 or 99, no fee or charge may be imposed or collected for the cost of providing an educational programme of a government school.

cl. 98

Charges for provision of certain materials and services and fees for instruction

98. (1) Regulations may be made providing for charges that may be made for —

- 5 (a) materials provided in an educational programme of a government school; or
- (b) services or facilities for use in, or associated with the provision of, an educational programme of a government school,
- 10 or providing for fees for instruction provided at a government school by persons other than any member of the teaching staff.

(2) The principal of a government school may from time to time determine a charge —

- 15 (a) if the charge is of a kind prescribed by the regulations as able to be charged for the purposes of this section; and
- (b) not exceeding any limit prescribed by the regulations.

(3) If the school has a Council a determination under subsection (2) does not have effect unless it has been approved by the Council.

20

(4) All charges for a school year must be determined under subsection (2) and approved under subsection (3) not later than 2 months before the beginning of the school year.

(5) The principal is to take reasonable steps to notify the persons from whom may be recovered under section 102 the charges that are payable under this section for a school year, of those charges.

25

(6) Notification under subsection (5) must be given not later than 2 months before the beginning of the school year but the

validity of a determination is not affected by the failure of a person to receive notice.

(7) When notifying a person for the purposes of subsection (5), it is sufficient for the principal to notify the person —

- 5 (a) of the total charges that are payable under this section for the school year in respect of the child; or
- (b) of the scale of charges for each component of the school's educational programme that will be available to the child in the school year.

10 (8) Charges determined and approved under, and fees provided for by, this section in relation to a government school are payable to the principal of the school.

Overseas students and adult students

15 **99.** (1) A person who enrolls at a government school in a year and —

- (a) is a non-resident; or
- (b) whose post-compulsory education period has ended before 1 January in that year,

20 is to pay such fees for instruction as may be prescribed and in accordance with the regulations.

(2) In subsection (1) (a) —

“non-resident” means a person who —

- (a) is not entitled to reside permanently in Australia; and
- 25 (b) satisfies the criteria (if any) prescribed by the regulations for the purposes of this subsection.

cl. 100

Financial hardship

100. Regulations may be made providing for the remission or reduction in circumstances of financial hardship of any fee or charge provided for by this Subdivision.

5 Students (other than overseas or adult students) cannot be excluded for non-payment

101. A principal of a government school must not exclude a student, other than a student referred to in section 99, from participating in an educational programme of the school for the non-payment of a fee or charge payable under this Subdivision.

Recovery

102. Any fee or charge that is payable under this Subdivision in respect of a student may be recovered as a debt, if necessary in a court of competent jurisdiction —

- 15 (a) from a parent of the student;
- (b) in the case of a student who has turned 18 or who is a prescribed child, from the student.

Optional costs not affected

103. Nothing in this Subdivision prevents a person from —

- 20 (a) agreeing to pay money for or towards the cost of providing an educational programme for a student; or
- (b) enforcing an agreement referred to in paragraph (a).

Subdivision 2 — School funds

General Purposes Fund

104. Each government school is to have a fund to be called the “(name of the school) General Purposes Fund”.

5 Funds for special purposes

105. The chief executive officer may authorize the principal of a government school to establish funds for the receipt of donations and bequests for or towards —

- 10
- (a) the addition of new capital works to the school premises;
 - (b) the benefit of the school library; or
 - (c) the benefit of the school generally.

Management of school funds

15 **106.** (1) The management of a school fund is to be vested in the principal unless some other officer is designated by the chief executive officer to perform that function at the school.

(2) The chief executive officer may amend, revoke or replace a designation under subsection (1).

20 (3) Moneys forming part of a school fund may only be expended by or with the authority of the principal or the other person designated under subsection (1) and in accordance with —

- (a) the regulations; and

cl. 107

- (b) any directions (not being inconsistent with the regulations) issued by the chief executive officer either generally or in any particular case.
- (4) However —
 - 5 (a) money paid under a licence to which section 211 applies as a security for the performance of an obligation may only be applied in accordance with the licence; and
 - 10 (b) subsection (3) only applies to that money if the money has been forfeited under, and in accordance with, the licence.

What may be credited

107. (1) There are to be credited to the General Purposes Fund of a school —

- 15 (a) moneys from time to time allocated to the school from funds appropriated by Parliament;
- (b) grants and advances to the school from government and private sources;
- 20 (c) charges collected for the purposes of the school and any fees that, in accordance with regulations, are to be payable to the principal of the school;
- (d) moneys payable to the school under section 208 or 214;
- 25 (e) the proceeds of any investment of the General Purposes Fund under section 110; and
- (f) subject to subsection (2), other moneys properly receivable for the purposes of the school.

(2) There are to be credited to a fund established for a school under section 105 —

- (a) donations and bequests to the school for the purpose for which the fund was established; and
- 5 (b) the proceeds of any investment of the fund under section 110.

Bank account

108. (1) Moneys forming part of a school fund are to be paid into an account at a bank approved by the chief executive officer.

10 (2) A government school is to have only one such bank account for each school fund except to the extent that the chief executive officer approves otherwise.

(3) The bank account or accounts may only be operated jointly by —

- 15 (a) the principal; and
- (b) one or more office-holders, or persons belonging to a class, designated under subsection (4).

(4) The chief executive officer is to designate for each government school the office-holders or class of persons who may
20 act under subsection (3) (b).

(5) In this section —

“**bank**” means a bank as defined in section 5 of the *Banking Act 1959* of the Commonwealth.

cl. 109

Certain provisions not to apply

5 **109.** Sections 104 to 108 have effect despite sections 6 and 34 of the *Financial Administration and Audit Act 1985*, but nothing in sections 104 to 108 is to be read as affecting the responsibilities of the chief executive officer as accountable officer under that Act in respect of moneys referred to in section 107.

Investment of school funds

10 **110.** Moneys forming part of a school fund may, until required to be paid out under section 106, be invested in the name of the school by —

- (a) the principal; or
- (b) the other person designated under section 106 (1),

15 in the manner in which certain public moneys may be invested under section 38 of the *Financial Administration and Audit Act 1985*.

Closure or amalgamation of school

111. (1) If a school is closed or amalgamated with another school —

- 20
- (a) subject to subsection (2), moneys in a school fund are to be dealt with as the chief executive officer may direct; and
 - (b) the bank account for the fund may be operated by the chief executive officer for the purpose of giving effect to such a direction.

25 (2) However —

- (a) money paid under a licence to which section 206 applies as a security for the performance of an

obligation may only be applied in accordance with the licence; and

- 5 (b) subsection (1) (a) only applies to that money if the money has been forfeited under, and in accordance with, the licence.

Division 7 — Other management provisions

School year for government schools

10 **112.** (1) The chief executive officer, by order published in the *Government Gazette*, is to determine the days in each year on which government schools are to be open for educational instruction of students.

(2) An order that makes or includes such a determination for any year must be published in the *Government Gazette* at least 3 years before the beginning of that year.

15 (3) Section 43 (4) and (7) to (9) of the *Interpretation Act 1984* apply to an order under this section as if the order were regulations.

(4) An order under this section made within 3 months of the commencement of this Act need not comply with subsection (2).

20 **Disputes and complaints**

113. (1) Regulations may be made providing for means by which disputes or complaints about —

(a) the provision of education; or

(b) the conduct of any member of the teaching staff,

25 in government schools may be dealt with.

cl. 114

(2) Regulations of the kind mentioned in subsection (1) may —

- 5 (a) confer authority on the chief executive officer to make provision, by instrument published in the *Government Gazette*, for a scheme for dealing with disputes and complaints;
- (b) confer protection on persons in respect of statements made or information given; and
- 10 (c) provide for the powers that may be exercised in connection with the investigation and resolution of disputes and complaints.

Management and control of school premises

15 **114.** (1) Regulations may be made making provision in relation to premises used for or in connection with government schools including buildings and other things erected or standing on those premises (“**school premises**”).

(2) Regulations of the kind mentioned in subsection (1) may provide for —

- 20 (a) persons who may enter or remain on school premises and the purposes for which and circumstances in which they may do so;
- (b) what may be brought on to school premises;
- (c) the times when and purposes for which school premises are to be open or closed;
- 25 (d) the payment of fees or charges for the use of school premises other than for school activities;
- (e) the closure of the whole or part of school premises for the safety and protection of the premises and persons in the vicinity of the premises;
- 30 (f) the maintenance of good order on school premises;

- (g) the conduct of persons on school premises and things that they are not permitted to have in their possession;
- (h) the parking and standing of vehicles;
- 5 (i) the prohibition or use of vehicles and the regulation of traffic on school premises; and
- (j) the conferral on school officials of powers —
 - (i) to require a person on school premises to give his or her name and address;
 - 10 (ii) to prohibit a person from entering school premises;
 - (iii) to remove property from school premises, move property within the premises, and recover the attendant cost and expenses; and
 - 15 (iv) to take possession of property on school premises that appears to be lost, discarded or disused and, subject to any prescribed requirements for notice to be given, to dispose of the property as being the property of the department.

20 Dealing with persons disrupting school premises

- 115.** (1) If an authorized person reasonably suspects that a person who is not a student at a government school —
- (a) has substantially disrupted, or is likely to substantially disrupt, the discipline of students or the
25 good order of the school; or

cl. 115

- (b) has used threatening, abusive or insulting language towards a teacher acting in an official capacity,

the authorized person may require the person to —

- (c) state his or her name and address; and
- 5 (d) leave the school premises, and remain away from those premises for the following 24 hours.

(2) A person must not —

- (a) fail to comply with a requirement directed to him or her under subsection (1); or
- 10 (b) when required to state his or her name and address, give any false or misleading information.

Penalty: \$5 000 or imprisonment for 6 months.

(3) An authorized person may —

- 15 (a) detain a person who has contravened subsection (2) until the person can be delivered to a police officer; and
- (b) use the help of other persons as is necessary for that purpose.

20 (4) Reasonable force may be used in the exercise of the powers conferred by subsection (3).

(5) In this section —

“authorized person” in relation to a government school means —

- (a) the principal of the school;

- 5
- (b) a person authorized by the chief executive officer to exercise the powers conferred by this section in respect of that school; or
 - (c) a person who belongs to a class of persons so authorized.

Dissemination of certain information on school premises

116. (1) A person must not on the premises of a government school give to students, whether orally or in writing, information —

- 10
- (a) to which this section applies; and
 - (b) which is not part of the educational programme of the school,

if the purpose of doing so is to impress a particular viewpoint or message on the minds of the students.

15 Penalty: \$2 000.

- (2) This section applies to information that —
- (a) is intended to generate support for a political party;
 - (b) advertises any commercial goods, product or service, except as allowed under section 209 (2) (d);
 - 20 (c) promotes a particular denomination or sect, except as allowed under section 69; or
 - (d) advocates the case of a party to an industrial dispute, including the chief executive officer.

cl. 117

(3) The principal of a government school —

(a) is to take all reasonable steps to ensure that subsection (1) is complied with; and

5 (b) may confiscate any written material that is on the school premises in contravention of that subsection.

Dealings with a parent

117. (1) The principal of, or a teacher at, a government school may notify information about a student to a person who is shown in the register referred to in section 19 as a parent of the student
10 without being concerned —

(a) to enquire whether there is any other person who in relation to the child may be within the definition of “parent” in section 4; or

15 (b) to notify the information to another person whom he or she knows to be within that definition.

(2) If a person who is shown in the register referred to in section 19 as a parent of a student gives to the principal of, or a teacher at, a government school an authorization or direction in relation to the student, the principal or teacher is not
20 concerned —

(a) to enquire whether there is any other person who in relation to the child may be within the definition of “parent” in section 4; or

25 (b) to obtain a like authorization or direction from another person whom he or she knows to be within that definition.

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

General management

118. (1) Regulations may be made for the general management of government schools.

5 (2) Without limiting subsection (1) regulations may be made —

(a) for the discipline of students and the powers of principals in that respect; and

(b) prescribing the hours for the instruction of students in government schools.

10 ***Division 8 — Parent and community involvement***

Subdivision 1 — School Councils

Definition

119. In this Subdivision —

15 “**school**” means a government school and includes, where section 120 (2) applies, all relevant government schools.

Government school to have a Council

120. (1) A government school is to have a Council unless it is exempted by the Minister under section 121.

20 (2) It is sufficient compliance with subsection (1) for 2 or more government schools, with the approval of the Minister, to have one Council that operates for those schools jointly.

cl. 121

Exemptions and approvals

121. (1) The Minister may by order published in the *Government Gazette* —

- 5 (a) exempt a school from the requirements of section 120 (1) if the Minister is satisfied that it is not necessary for the school to have a Council —
- (i) because of its size or nature; or
- (ii) because the functions to be performed by a Council can be provided by some other means;
- 10 (b) give an approval for the purposes of section 120 (2); and
- (c) at any time revoke an order and specify a time by which the school is to comply with section 120 (1).

(2) The Minister may —

- 15 (a) make an exemption or approval subject to any condition; and
- (b) impose any further condition or vary or revoke a condition at any time.

Constitution of Councils

20 **122.** (1) The membership of a Council for a school is to be drawn from —

- (a) the parents of students at the school except where the majority of the students at the school are 18 years of age or more;
- 25 (b) other members of the community;

(c) the staff of the school; and

(d) where the school is of a prescribed class, students at the school, but no student under 18 years of age can be a member of an incorporated Council.

5 (2) The principal for the time being of a school is automatically a member of the Council for that school.

(3) A person who —

(a) is the principal of, or on the staff of, a school which has a Council; and

10 (b) is also a person described in subsection (1) (a) or (b),

can only be a member of the Council in his or her capacity as the principal or a staff member.

(4) Persons referred to in subsection (1) (c) cannot form the majority of members of a Council but otherwise the majority of
15 members of a Council is as prescribed by the regulations.

(5) Subject to this section —

(a) the procedure for the establishment of Councils;

(b) the number of members and composition of Councils;

(c) the manner in which persons become members;

20 (d) the term of office of members; and

(e) matters relating to ineligibility for, and cessation or termination of, membership,

are to be as prescribed by the regulations.

cl. 123

(6) The Chairperson of the Council is to be elected by and from its members.

Functions of Councils

123. The functions of a Council for a school are —

- 5 (a) to take part —
- (i) in establishing, and reviewing from time to time, the school's objectives, priorities and general policy directions;
- 10 (ii) in the planning of financial arrangements necessary to fund those objectives, priorities and directions; and
- (iii) in evaluating the school's performance in achieving them;
- (b) to promote the school in the community;
- 15 (c) to take part in formulating codes of conduct for students at the school;
- (d) to determine, in consultation with students, their parents and staff of the school, a dress code for students when they are attending or representing the school;
- 20 (e) to carry out the functions given by sections 70, 98 (3) and 204 (5); and
- (f) to undertake such other functions prescribed by the regulations for the purposes of this section.

25 Minister may approve additional functions for a Council

124. (1) This section applies to any Council.

(2) With the approval of the Minister, a Council for a school may —

- (a) take part in the selection of the school principal; and

(b) carry out any other function prescribed by the regulations for the purposes of this section.

5 (3) An approval is only to be given for the purposes of subsection (1) if the Minister is of the opinion that it will be in the best interests of the students that the Council have the function to which the approval relates.

(4) The Minister may —

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

(b) at any time —

10 (i) impose any further condition or vary or revoke a condition; or

(ii) revoke an approval.

Incorporated Council may have prescribed additional functions if approved by the Minister

15 **125.** (1) Regulations may be made prescribing functions that a Council may perform only if it has the approval of the Minister in terms of subsection (2).

20 (2) An approval referred to in subsection (1) is to be given by the Minister only if in his or her opinion the performance by the Council of the function to which the approval relates will —

(a) improve an educational programme of the school or the management of the school's facilities; and

(b) be in the best interests of the students.

(3) An approval referred to in subsection (1) —

25 (a) is to be conditional on the Council —

(i) having a constitution containing provisions approved by the Minister; and

cl. 126

- (ii) becoming an incorporated association under the *Associations Incorporation Act 1987* within a period specified by the Minister;
- 5 (b) does not have effect until those conditions are satisfied; and
- (c) may be subject to any other condition.
- (4) The Minister may at any time —
- (a) impose any further condition or vary or revoke a condition; or
- 10 (b) revoke an approval.
- (5) While any approval is in force any change to the constitution of the Council, other than an amendment to this Act or the regulations, or any substituted constitution is of no effect until it has been approved by the Minister.

15 Council not concerned in school management

126. A Council cannot —

- (a) intervene in the control or management of a school unless —
- 20 (i) the Council is one to which section 125 applies; and
- (ii) the intervention is by way of performing a function prescribed for the purposes of section 125;
- (b) intervene in the educational instruction of students; or
- 25 (c) exercise authority over teaching staff or other persons employed at the school.

Powers of Council

127. A Council may do all things necessary or convenient to be done for or in connection with the carrying out of its functions.

Principal to provide support

5 128. The principal of a school is to provide the school's Council with such support services as it may reasonably require.

Council to comply with Minister's directions

10 129. (1) The Minister may give directions in writing to a Council with respect to the performance of its functions, either generally or in relation to a particular matter, and the Council is to give effect to any such direction.

(2) A direction under subsection (1) may require a Council to comply with a specified instruction or class of instructions issued by the chief executive officer under section 226.

15 **Procedures**

130. Subject to this Act, a Council is to determine its own procedures.

Protection from liability

20 131. (1) An action in tort does not lie against a person for anything that the person has done in good faith as a member of a Council.

25 (2) Subsection (1) does not relieve a Council that is an incorporated association under the *Associations Incorporation Act 1987* of any liability that it might have for the doing of anything referred to in that subsection.

(3) In this section, a reference to the doing of anything includes a reference to the omission to do anything.

cl. 132

Minister may dismiss Council

132. (1) This section does not apply to a Council that by operation of section 125 is an incorporated association under the *Associations Incorporation Act 1987*.

5 (2) If in the opinion of the Minister the conduct of a Council is incompetent, inadequate or improper or a Council is in breach of this Act, the Minister is to give written notice to the Council —

- 10 (a) setting out particulars of the allegations against it; and
- (b) requiring that the situation be remedied within the time specified in the notice.

(3) If the Minister is of the opinion that a Council has not complied with a notice under subsection (1) the Minister may, by order published in the *Government Gazette*, dismiss the Council.

15

(4) An order under subsection (3) may make any supplementary or incidental provision that the Minister considers is necessary to allow the dismissal to have effect with the least inconvenience to the school, the students at the school and their parents and the staff of the school.

20

- (5) Provision may be made under subsection (3) —
- (a) for ownership of the Council's documents and records; and
- (b) for custody of them to be given to a specified person or persons.
- 25

Winding up of Council that is incorporated

133. (1) A Council that, by operation of section 125, is an incorporated association under the *Associations Incorporation Act 1987* may, if the Council is in breach of this Act or the

conduct of the Council is incompetent, inadequate or improper, be wound up by the Supreme Court on the application of the Minister.

5 (2) The *Associations Incorporation Act 1987* applies to a Council for the purposes of subsection (1) as if the grounds referred to in that subsection were specified in section 31 of that Act as grounds for winding up.

10 (3) This section is in addition to, and does not limit, the application of the *Associations Incorporation Act 1987* to a Council that is an incorporated association.

Regulations

134. Without limiting section 122 (5), 124 (2) (b) or 125, regulations may be made in respect of the functions, powers and duties of Councils and in particular —

- 15 (a) enabling Councils to co-opt members of the local community as members of Councils and prescribing the capacity in which they may be co-opted provided that no co-opted member shall have any voting rights on the Council to which she or he is co-opted;
- 20 (b) enabling Councils to allow students to attend meetings and take part in discussion but without having a right to vote or being counted in determining a quorum;
- (c) with respect to the proceedings of Councils;
- 25 (d) providing in relation to a school dress code referred to in section 123 (d) —
- (i) for the matters which may, or cannot, be provided for in a code;

cl. 135

- (ii) for the procedures to be followed by a Council in the formulation and approval of a code; and
- (iii) enabling the principal of a school to exempt a student at the school from complying with any requirement of a code approved by the school's Council.

Subdivision 2 — Parents and Citizens' Associations

Definition

135. In this Subdivision —

“association”, except in section 143, means a Parents and Citizens' Association formed under section 136;

“incorporated association” has the same meaning as it has in the *Associations Incorporation Act 1987*.

Formation of Parents and Citizens' Associations

136. Parents and other persons who are interested in the welfare of a government school or a group of government schools may, in accordance with this Subdivision, form a Parents and Citizens' Association for that school or that group of schools.

Objects etc.

137. (1) The objects of an association are to promote the interests of the school or group of schools for which it is formed through —

- (a) cooperation between parents, teachers, students and members of the general community;
- (b) assisting in the provision of resources, facilities and amenities for the school or schools; and

(c) the fostering of community interest in educational matters.

(2) An association cannot —

(a) intervene in the control or management of a school;

5 (b) intervene in the educational instruction of students; or

(c) exercise authority over teaching staff or other persons employed at the school.

(3) An association is not to expend its funds that are in excess of administrative costs otherwise than for the benefit of
10 students at a government school.

(4) The constitution of an association must at all times be consistent with this section.

Certain property vested in Minister

15 **138.** All property acquired by an association for the use of a school or group of schools is acquired for the purposes of this Act; and section 208 applies to it whether or not any public moneys were spent on its acquisition.

Incorporation

20 **139.** (1) This section applies to an association formed after the commencement of this Division.

(2) An association is to become an incorporated association within 3 months after it is formed.

(3) An association is not to apply for incorporation under the *Associations Incorporation Act 1987* unless the Minister has first
25 approved the provisions of the proposed constitution.

cl. 140

(4) No provision in an association's constitution has effect until it has been approved by the Minister.

(5) While any approval is in force any change to an association's constitution or any substituted constitution is of no effect until it has been approved by the Minister.

Transitional provision

140. (1) This section applies to an association to which clause 21 of Schedule 1 applies.

(2) An association that is not incorporated at the commencement of this Division is to become an incorporated association within 2 years from that commencement.

(3) An association referred to in subsection (2) is not to apply for incorporation under the *Associations Incorporation Act 1987* unless the Minister has first approved the provisions of the proposed constitution.

(4) No provision in the constitution of an association referred to in subsection (2) has effect until it has been approved by the Minister.

(5) An association —

(a) that is referred to in subsection (2); or

(b) that is an incorporated association at the commencement of this Division,

is not to apply under the *Associations Incorporation Act 1987* to change or substitute its constitution unless the Minister has first approved the proposed change or substituted constitution.

(6) Any change to an association's constitution or any substituted constitution is of no effect until it has been approved by the Minister.

Information to be given to principal

141. An association for a school or a group of schools must —

- 5 (a) before 30 April in each year notify the principal of the school, or of each of the schools, in writing of the names of the persons who as at 1 April in that year are office-bearers or committee members of the association; and
- 10 (b) give to the principal of the school, or of each of the schools, a copy of the audited annual financial statements of the association as soon as is practicable after those statements have been approved by the association.

Winding up of associations

15 **142.** (1) An association that is in breach of this Act may be wound up by the Supreme Court on the application of the Minister.

(2) The *Associations Incorporation Act 1987* applies to an association for the purposes of subsection (1) —

- 20 (a) whether or not the association is an incorporated association; and
- (b) as if a breach referred to in subsection (1) were specified in section 31 of that Act as a ground for winding up,

25 but in the case of an association that is not an incorporated association, the application of that Act is limited to the purposes of subsection (1).

30 (3) In the case of an association that is an incorporated association, this section is in addition to, and does not limit, the application of the *Associations Incorporation Act 1987* to the association.

cl. 143

Other associations

5 **143.** (1) Nothing in this Subdivision prevents the formation and carrying on of any other association, in relation to a government school or group of schools, that has as its object or one of its objects the promotion of the interests of the school or the group of schools or students at the school or the groups of schools either generally or in any particular respect.

10 (2) An association referred to in subsection (1) is not to have a name that is likely to be misunderstood as referring to an association to which section 136 applies.

(3) If the Minister is of the opinion that an association referred to in subsection (1) —

(a) is being carried on in a way that is not in the interests of the school; or

15 (b) has a name that contravenes subsection (2),

he or she may give directions in writing to the persons who manage the affairs of the association as to any matter relating to the name, constitution, objects or management of the association.

20 (4) A person to whom a direction is given under subsection (3) must take all steps reasonably available to him or her to comply with it.

Penalty: \$500.

25 (5) If any such direction is not complied with, the association may, on the ground of that non-compliance, be wound up by the Supreme Court on the application of the Minister; and section 142 (2) and (3) apply for that purpose with all necessary changes.

PART 4 — NON-GOVERNMENT SCHOOLS

What this Part is about

5 *This Part requires non-government schools to be approved and registered by the Minister and makes various provisions about their operation and funding.*

In particular it deals with —

- *the registration of non-government schools that meet the required standards (Division 2);*
- 10 • *recognition of groups of registered schools (“system schools”) that are under the control of one governing body, and agreements between the Minister and the governing body about the operation of schools in the group (Division 3);*
- *inspection of registered schools and the provision of information to the Minister (Division 4);*
- 15 • *the allocation of funds appropriated by Parliament for registered schools (Division 5).*

Division 1 — Preliminary

Definitions

144. In this Part, unless the contrary intention appears —

20 “governing body” means —

- (a) in relation to a school or proposed school, the person or body of persons that has the ownership, management or control of the school or proposed school; and

cl. 145

(b) in relation to a system of non-government schools, the person or body of persons that exercises a supervisory role over the schools in the system;

5 **“non-system school”** means a school that is not a member of a school system;

“registered school” means a school registered under section 153;

10 **“school system”** means a school system that is recognized under section 162;

“system agreement” means an agreement under section 166;

“system school” means a school that is a member of a school system.

15 References to chief executive officer

20 **145.** References in this Part to the chief executive officer are to the chief executive officer appointed under section 45 of the *Public Sector Management Act 1994* for the department principally assisting the Minister in the administration of this Part.

Delegation by the chief executive officer

25 **146.** (1) The chief executive officer may, by instrument, delegate to an officer of the department the performance of any of the functions conferred on the chief executive officer by this Act except this power of delegation.

(2) A delegation may be general or as otherwise provided by the instrument of delegation.

(3) Where an officer performs a function of the chief executive officer he or she is to be taken to do so in accordance with the terms of a delegation under this section, unless the contrary is shown.

5 (4) Performance of a function by an officer under this section is to be treated as performance by the chief executive officer.

Division 2 — Registration of non-government schools

Offence of carrying on unregistered school etc.

10 **147.** (1) A person must not establish or carry on an establishment that provides an educational programme for children in their —

- (a) pre-compulsory education period;
- (b) compulsory education period; or
- (c) post-compulsory education period,

15 unless the establishment is registered under this Part.

Penalty: \$10 000 and a daily penalty of \$50.

(2) Subsection (1) does not apply to —

- (a) a government school;
- (b) a community kindergarten registered under Part 5;
- 20 (c) an establishment that provides an educational programme of a kind prescribed by the regulations.

(3) A person employed in an establishment referred to in subsection (1) is not guilty of an offence against that subsection if

cl. 148

the person proves that he or she acted under an honest and reasonable belief that the establishment was carried on under and in accordance with —

- (a) a registration referred to in subsection (2) (b); or
- 5 (b) a certificate referred to in section 155.

Offence of false representation

148. A person must not falsely represent in relation to an establishment that —

- (a) the establishment is registered under this Part; or
- 10 (b) enrolment in the establishment satisfies the requirements of section 9 (1).

Penalty: \$10 000.

Scheme of registration

149. (1) The Minister may register non-government schools.

15 (2) A school is to be registered as a system school or a non-system school.

(3) A school is to be registered as providing educational programmes of a general or any specified kind for one or more of the following —

- 20 (a) education for children in their pre-compulsory education period or for any specified part of that period;
- (b) education for children in their compulsory education period or for any specified part of that period; or

(c) education for children in their post-compulsory education period or for any specified part of that period.

5 (4) The chief executive officer is to keep a register of schools that are registered under this Part.

Minister may make advance determination of certain issues

10 **150.** (1) A person or body of persons that proposes to establish a non-government school may apply to the Minister for a determination of the kind described in subsection (2).

(2) The determination referred to is that, if an application were made under section 151 to register the proposed school, the Minister could not refuse to register it on the ground specified in section 153 (1) (f).

15 (3) The Minister may make such a determination and in doing so is to take into account the need to allow diversity of choice in educational programmes.

(4) The Minister may specify a time after which a determination will lapse.

20 (5) If when an application is made to register a school under section 151 a determination under this section is in force in respect of the school, the application cannot be refused on the ground referred to in subsection (2), but this subsection does not otherwise restrict the operation of section 153.

25 **Application for registration**

151. (1) The governing body of a school may apply to the Minister for the school to be registered as a system or a non-system school.

cl. 152

- (2) An application is to —
- (a) be made in writing at least 6 months before the day from which registration is sought;
 - 5 (b) specify the kind of education for which registration is sought;
 - (c) specify the location of all of the premises to be used by the school;
 - (d) provide any other prescribed information; and
 - (e) be accompanied by the prescribed fee.
- 10 (3) If the application is for registration as a system school, the application is to be accompanied by a statement in support of the application by the governing body of the school system.
- (4) The Minister may require the governing body to provide any other information that he or she considers necessary.

15 Matters to be considered by Minister

- 152.** (1) The Minister, in determining an application for registration, or for renewal of registration, of a school is to take into account —
- (a) the location of the premises to be used by the school;
 - 20 (b) the school's curriculum;
 - (c) the year levels of education to be provided;
 - (d) the number of days in each year on which the school is to be open for instruction;

- (e) the qualifications of the teachers;
 - (f) the school buildings, if any;
 - (g) the facilities to be provided;
 - (h) the number of children to attend the school;
 - 5 (i) the enrolment and attendance procedures;
 - (j) the means by which disputes and complaints about the provision of education at the school may be dealt with;
 - 10 (k) the arrangements (if any) for board and lodging for students on school premises or premises associated with the school;
 - (l) the sufficiency of the school's financial resources; and
 - (m) any other matter prescribed by the regulations.
- (2) The Minister may determine standards in respect of the
15 matters referred to in subsection (1) and is to determine any standard in accordance with consultation procedures prescribed by the regulations.

Grant or refusal of registration

- 20 **153.** (1) The Minister is to register the school if the Minister is satisfied that —
- (a) the constitution of the governing body of the school is satisfactory for the purposes of this Act;
 - (b) the members of the governing body are fit and proper persons to operate a school;

cl. 153

- (c) the school will meet any standards determined by the Minister under section 152 (2);
 - (d) the school will provide a satisfactory standard of education of the kind for which registration is sought;
 - 5 (e) the school will provide satisfactory levels of care for the children concerned;
 - (f) the school will not have a detrimental effect on the ability of an existing school to function as a school; and
 - 10 (g) the school complies, or will be able to comply, with any written laws affecting the operation of the school.
- (2) If the Minister is not so satisfied, he or she is to —
- (a) register the school subject to specified conditions; or
 - (b) refuse to register the school.
- 15 (3) If the Minister is not satisfied as to the matter mentioned in subsection (1) (a) he or she may impose a condition that within a specified period —
- (a) the school is to have a governing body that is a body corporate; and
 - 20 (b) the constitution of the governing body is to be approved by the Minister as being satisfactory for the purposes of this Act.
- (4) In subsection (1) (f) —
- 25 **“existing school”** includes a proposed school for which a determination under section 150 (2) is in force.

Minister to notify decision within 3 months

154. The Minister, within 3 months after the application is received, is to notify the applicant in writing of the decision and, if registration is refused, of the reasons for the refusal.

5 Certificate of registration

155. The Minister is to issue a certificate of registration to the governing body of a school that is granted registration or renewal of registration, specifying the kinds of education, in terms of section 149 (3), for which it is registered and —

- 10 (a) in the case of a school to which section 156 (1) applies, the period of registration; or
- (b) in the case of a school to which section 156 (2) applies, the name of the school system of which it is a member.

15 Period of registration

156. (1) Subject to this Part, the registration of a school that is —

- (a) a non-system school; or
- 20 (b) a member of a school system for which a system agreement is not in force,

continues for the period specified in its certificate of registration, being a period of not less than one year and not more than 7 years.

25 (2) Subject to this Part, the registration of a school that is a member of a school system for which a system agreement is in force continues until —

- (a) the school ceases to be a member of the school system; or
- 30 (b) the school system ceases to be recognized under section 162.

cl. 157

Renewal of registration

157. (1) The governing body of a school referred to in section 156 (1) may apply to the Minister for the registration to be renewed.

5 (2) An application for renewal is to be made in writing not earlier than 12 months and not later than 6 months before the end of the current period of registration.

(3) An application for renewal is otherwise to be made and determined in the same way as an application for initial
10 registration under section 151.

Amendment of conditions

158. (1) Where under section 153 (2) (a) a school is registered subject to conditions, the Minister may decide to —

- (a) impose any new condition; or
- 15 (b) change or remove an existing condition.

(2) The Minister is not to make a decision under subsection (1) without first consulting the governing body of the school.

(3) The Minister is to give written notice of any decision
20 under subsection (1) to the governing body of the school and the decision does not take effect until —

- (a) 14 days after the notice is given; or
- (b) such later time as is set out in the notice.

Minister may give directions

5 **159.** (1) The Minister may give directions in writing to the governing body of a registered school requiring the governing body to observe any standard for the time being determined under section 152 (2).

(2) A governing body is to comply with a direction so given.

Cancellation of registration

160. (1) The Minister may cancel the registration of a system or non-system school at any time if the Minister is satisfied —

10 (a) that the school or its governing body is not complying with —

(i) this Act;

(ii) any relevant requirement of the *Curriculum Council Act 1997*;

15 (iii) any condition of the school's registration; or

(iv) a direction given under section 159;

or

(b) that it is in the best interests of the children at the school to do so.

20 (2) The Minister is not to cancel the registration of a school without first —

(a) notifying the governing body of the proposed cancellation and of the reasons for it; and

25 (b) giving the governing body a reasonable opportunity to show why the registration should not be cancelled.

cl. 161

(3) Subsection (2) does not apply if in the opinion of the Minister the health or welfare of persons may be at risk if the registration is not cancelled immediately.

5 (4) The Minister is to give written notice of the cancellation to the governing body.

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

(6) In this section —

“governing body” means —

- 10 (a) for a non-system school the governing body of the school; or
- (b) for a system school the governing body of the system.

Review of decisions in relation to registration

15 **161.** (1) The governing body of a school may apply in writing to the Minister for a review of a decision of the Minister —

- (a) to refuse to register the school;
- (b) concerning a condition to which the school's registration is subject; or
- 20 (c) to cancel the school's registration.

(2) The application is to be made within 28 days after the applicant received written notice of the decision.

25 (3) Where an application is made under subsection (1), the Minister is to refer the matter to a Non-government School Registration Advisory Panel which is to examine the matter and report to the Minister with its recommendation.

(4) A Non-government School Registration Advisory Panel is to give the applicant the opportunity to be heard.

5 (5) The Minister is to give a copy of the report of the Non-government School Registration Advisory Panel to the applicant.

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

10 (7) In this section —

“Non-government School Registration Advisory Panel” means an advisory panel under section 234 established for the purposes of subsection (3) of this section.

15 ***Division 3 — Non-government school systems***

Subdivision 1 — Recognition of systems

Recognized school systems

20 **162.** (1) Where the Minister is satisfied that subsection (2) applies to a group of registered schools, the Minister may by order published in the *Government Gazette* declare the schools to be a recognized school system.

(2) This subsection applies where a person or body of persons exercises a supervisory role over a group of 2 or more registered schools.

25 (3) An order under subsection (1) is to specify —

- (a) the schools that are members of the school system; and
- (b) the name and address of the governing body of the system.

cl. 163

Revocation of order

163. (1) The Minister may by order published in the *Government Gazette* revoke an order under section 162 in respect of a school system if —

- 5 (a) the Minister is no longer satisfied that section 162 (2) applies to the schools in the system; or
- (b) the Minister is satisfied that it is in the best interests of children at schools in the system to do so.

10 (2) An order under subsection (1) in respect of a school system may provide that the registration of a school in the system will remain in force for a period of up to 12 months after the order comes into force.

 (3) The Minister is not to publish an order under subsection (1) in respect of a school system without first —

- 15 (a) notifying the governing body of the system of the proposed revocation and of the reasons for it; and
- (b) giving the governing body a reasonable opportunity to show why the order should not be revoked.

20 (4) The revocation takes effect at such time as is specified in the order.

Inclusion of a registered school in a school system

164. (1) The governing body of a school system may accept as a member of the system a school that is registered as a non-system school without conditions if that registration is not
25 subject to any condition.

 (2) The governing body is to give notice to the Minister of its intention to accept the school as from a day specified in the notice.

30 (3) The school becomes a member of the system on the day specified in the notice.

Withdrawal of a school from a school system

5 **165.** (1) The person or body of persons that has the ownership of a school that is a member of a school system may give notice to the Minister that the school wishes to withdraw from the system and apply for registration as a non-system school.

(2) If the Minister is satisfied that the school meets the requirements of section 152, the Minister may —

- (a) approve the withdrawal; and
- 10 (b) register the school as a non-system school as from a day specified by the Minister.

(3) The Minister is not to take action under subsection (2) in respect of a school without first —

- 15 (a) informing the governing body of the relevant system of the notice given under subsection (1); and
- (b) giving the governing body a reasonable opportunity to make submissions on it.

Subdivision 2 — System agreements

20 **Minister may make agreements with non-government school systems**

166. (1) The Minister may make an agreement with the governing body of a school system.

(2) The term of a system agreement is not to exceed 10 years but on its expiry a further system agreement may be made.

cl. 167

(3) If the Minister is not willing to make a further system agreement in place of an expiring system agreement, the Minister is to notify the governing body concerned in writing of that fact and of the reasons for his or her unwillingness.

5 (4) A notice under subsection (3) is to be given not later than 6 months before the agreement will expire.

Contents of a system agreement

167. (1) A system agreement is to include provisions as to —

- 10 (a) the responsibility of the governing body for the supervision of schools in the system;
- (b) methods by which the governing body will ensure that standards of educational instruction are maintained in the schools of the system;
- 15 (c) the giving of information to the Minister about the system and the schools that are members of the system, in particular —
- (i) statistical information;
- (ii) educational information; and
- (iii) financial information;
- 20 (d) the means by which disputes and complaints about the provision of education at schools within the system may be dealt with;
- (e) the procedure for varying the agreement from time to time; and
- 25 (f) any other matter prescribed by the regulations.

- (2) A system agreement may include provision by which —
- 5 (a) the Minister delegates to the governing body of the system the performance of functions under this Part relating to the registration or renewal of registration of schools in the system; and
- (b) the governing body of a system is to supply the information described in section 174 on behalf of schools in the system.
- 10 (3) The chief executive officer is to keep a register of system agreements and their contents.

Termination of a system agreement

168. The Minister may terminate a system agreement at any time if he or she is satisfied that the governing body of the system is not complying with the agreement.

15 ***Division 4 — Inspections and provision of information***

Inspection on notice

- 169.** (1) The Minister may authorize persons to inspect registered schools for the purpose of ensuring that any school is complying with —
- 20 (a) this Act;
- (b) any relevant requirement of the *Curriculum Council Act 1997*;
- (c) any condition of the school's registration; or
- (d) a direction given under section 159.

cl. 170

(2) The Minister is to issue a certificate of authority to any person authorized under subsection (1) that specifies —

(a) the schools that the person is authorized to inspect; and

5 (b) the period for which the certificate is in force.

(3) Any person authorized under subsection (1) may, on 7 days' notice —

(a) enter and inspect any premises of a registered school;

10 (b) require the production of records and documents relating to the school and inspect or take copies of them; and

(c) require any person to give assistance reasonably necessary for the exercise of the powers conferred by this section.

15 (4) In subsection (3) (b) and in section 170 (3) (b) and (c) —

“**records**” includes the registers referred to in sections 19 and 28 (3).

Inspection without notice

170. (1) If the Minister is of the opinion that —

20 (a) a registered school is not complying with —

(i) this Act;

(ii) any relevant requirement of the *Curriculum Council Act 1997*;

(iii) any condition of the school's registration; or

(iv) a direction given under section 159;

and

5 (b) it is necessary for an inspection to be made without notice,

he or she may authorize a person in writing to inspect the school without notice.

(2) The Minister is to issue a certificate of authority to any person authorized under subsection (1) that specifies —

10 (a) the school that the person is authorized to inspect;

(b) the period for which the certificate is in force, being a period of not more than 7 days; and

(c) the reasons for authorizing the inspection under subsection (1).

15 (3) Any person authorized under subsection (1) may —

(a) enter, search and inspect any premises of the school;

(b) require the production of records and documents relating to the school and inspect or take copies of them;

20 (c) if authorized in writing by the Minister to do so, take possession of any records or documents kept by the school; and

25 (d) require any person to give assistance reasonably necessary for the exercise of the powers conferred by this section.

cl. 171

Proof of authority

5 **171.** A person authorized under section 169 or 170 must produce the certificate referred to in subsection (2) of that section whenever asked to do so by a person in charge of any premises in respect of which the person is exercising or about to exercise his or her powers.

Offence of obstructing an inspection

10 **172.** A person must not hinder or obstruct an authorized person who is carrying out or attempting to carry out an inspection under this Part.

Penalty: \$2 000.

Notice of change of premises

15 **173.** The governing body of a registered school is not to move the school, or any part of it, to new premises, unless it has given to the Minister at least 90 days' notice of its intention to do so.

Provision of information by registered schools

174. (1) The Minister may, by notice in writing, require the governing body of a registered school to provide —

- 20 (a) statistical, educational and financial information about the school; and
- (b) any other information about the school relating to any matter referred to in section 152.

(2) If the school is a system school, the Minister is to send a copy of the notice to the governing body of the system.

(3) The governing body is to provide the required information within the period specified in the notice, being a period of not less than 14 days from receipt of the notice.

Penalty: \$2 000.

5

Division 5 — Funding

Minister may allocate moneys

175. (1) The Minister may allocate moneys that have been appropriated by Parliament for the purpose of assisting registered schools and school systems.

10

(2) Allocations must be made in accordance with —

- (a) an order made under section 176; or
- (b) guidelines issued under such an order.

15

(3) In the case of moneys appropriated for distribution according to the number of students at a school, account may only be taken of students who are in their pre-compulsory, compulsory or post-compulsory education periods and are —

- (a) entitled to reside permanently in Australia; or
- (b) members of a class of students prescribed by the regulations.

20

Orders as to funding

176. (1) The Minister may by order published in the *Government Gazette* make provision for —

- (a) the purposes for which; and

cl. 177

(b) the manner in which,

moneys appropriated by Parliament for the purposes of section 175 will be applied in assisting registered schools and school systems.

5 (2) The Minister may by order published in the *Government Gazette* amend or revoke an order under subsection (1).

(3) An order under subsection (1) or (2) is to take effect on such day as is specified in the order which may be a day earlier than the day on which the order is published.

10 **Contents of orders**

177. Without limiting section 176 an order under that section may provide —

- (a) for moneys to be paid to the governing body of —
 - (i) a registered school; or
 - 15 (ii) a school system for which a system agreement is in force;
- (b) for guidelines to be issued by the Minister from time to time expressing the principles upon which assistance will be given;
- 20 (c) that moneys not applied to the purposes specified in the order may, with the approval of the Minister, be applied to any other purpose approved by the Minister; or
- 25 (d) for any assistance provided to be subject to such conditions, limitations or restrictions as are specified in the order.

Accountability

178. (1) The Minister may require a governing body to furnish to the Minister a report as to the application of moneys provided under this Division.

5 (2) If —

(a) the governing body fails to furnish any report required by the Minister;

(b) any condition, limitation or restriction on the use of moneys is not complied with; or

10 (c) the Minister is of the opinion that moneys have not been applied in accordance with an order under section 176,

the Minister may recover the moneys as a debt in a court of competent jurisdiction.

15 ***Division 6 — Loans for capital works***

Minister may lend money

179. (1) The Minister may lend money for capital works to the governing body of —

(a) a registered school; or

20 (b) a school system for which a system agreement is in force.

(2) Any such loan is to be made out of moneys borrowed by the Minister under section 180.

25 (3) The terms and conditions of any such loan, including the interest to be paid —

cl. 180

(a) may be less onerous than those that might reasonably apply to such a loan made commercially; and

(b) are to be approved by the Treasurer.

(4) In subsection (1) —

5 **“capital works”** means the acquisition of land, the construction, modification and renovation of buildings and the purchase of plant and equipment, or any of those things.

Borrowing by the Minister

10 **180.** (1) The Minister may borrow moneys for the purpose of lending under section 179 —

(a) from the Treasurer on such terms and conditions relating to repayment and payment of interest as the Treasurer imposes; or

15 (b) with the prior written approval of the Treasurer and on such terms and conditions as the Treasurer approves, from persons other than the Treasurer.

(2) Any moneys borrowed by the Minister under subsection (1) (b) may be raised —

20 (a) as one loan or as several loans; and

(b) in such manner as the Treasurer approves.

(3) The total amount of the moneys borrowed by the Minister under subsection (1) (b) in any one financial year is not to exceed such amount as the Treasurer approves.

Moneys to be credited and charges to operating account

181. (1) The following moneys are to be credited to an operating account approved by the Treasurer —

- (a) repayments of moneys loaned under section 179; and
- 5 (b) moneys borrowed under section 180.

(2) The following moneys are to be charged to the operating account —

- (a) moneys loaned under section 179; and
 - (b) repayments of moneys borrowed under section 180.
- 10 (3) In this section —

“operating account” means a trust account established and administered under section 15B of the *Financial Administration and Audit Act 1985*.

Guarantee by the Treasurer

15 **182.** (1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee payments to be made by the Minister in respect of moneys borrowed by the Minister under section 180 (1) (b).

20 (2) A guarantee is to be in such form and contain such terms and conditions as the Treasurer determines.

- (3) Before a guarantee is given —
- (a) the Minister is to give to the Treasurer such security as the Treasurer requires; and
 - 25 (b) all instruments that are necessary for the purpose are to be executed.

cl. 183

(4) The Treasurer may fix charges to be paid by the Minister to the credit of the Consolidated Fund in respect of a guarantee given under this section.

Payments under guarantee

5 **183.** (1) The due payment of moneys under a guarantee given under section 182 is to be —

(a) made by the Treasurer; and

(b) charged to, and paid out of, the Consolidated Fund,

and this subsection appropriates that Fund accordingly.

10 (2) The Treasurer is to cause to be credited to the Consolidated Fund any amounts received or recovered from the Minister or otherwise in respect of any payment made by the Treasurer under a guarantee given under section 182.

PART 5 — COMMUNITY KINDERGARTENS

What this Part is about

5 *This Part requires community kindergartens to be registered by the Minister and makes various provisions about their operation and funding.*

In particular it deals with —

- *the registration of community kindergartens that meet the required standards (Division 2);*
- 10 • *the operation and management of community kindergartens (Division 3);*
- *the allocation of funds appropriated by Parliament for community kindergartens (section 203).*

Division 1 — Preliminary

Definition

15 **184.** In this Part, unless the contrary intention appears —

“**governing body**”, in relation to a kindergarten or proposed kindergarten, means the person or body of persons that has the ownership, management or control of the kindergarten or proposed kindergarten.

20 ***Division 2 — Registration of community kindergartens***

Scheme of registration

185. The Minister may register community kindergartens for the provision of educational programmes for children in the first year of their pre-compulsory education period.

cl. 186

Application for registration

186. (1) The governing body of a kindergarten may apply to the Minister for the kindergarten to be registered as a community kindergarten.

5 (2) An application is to —

(a) be made in writing at least 6 months before the day from which registration is sought;

(b) specify the location of all the premises to be used by the kindergarten; and

10 (c) provide any other prescribed information.

(3) The Minister may require the governing body to provide any other information that he or she considers necessary.

Matters to be considered by Minister

15 **187.** (1) The Minister, in determining an application for registration of a kindergarten is to take into account —

(a) the location of the premises to be used by the kindergarten;

(b) the kindergarten's buildings, if any;

20 (c) the playground equipment and other facilities to be provided; and

(d) any other matter prescribed by the regulations.

(2) The Minister may determine standards in respect of the matters referred to in subsection (1).

Grant or refusal of registration

188. (1) The Minister is to register the kindergarten as a community kindergarten if the Minister is satisfied that —

- 5 (a) the governing body of the kindergarten will be incorporated under the *Associations Incorporation Act 1987* before the day from which registration is sought;
- 10 (b) the constitution of the governing body of the kindergarten is satisfactory for the purposes of this Act;
- (c) the members of the governing body are fit and proper persons to operate a community kindergarten;
- (d) the kindergarten will meet any standards determined by the Minister under section 187 (2);
- 15 (e) the kindergarten will provide satisfactory levels of care for the children concerned; and
- (f) the kindergarten complies, or will be able to comply, with any written laws affecting the operation of the kindergarten.
- 20 (2) If the Minister is not so satisfied, he or she is to —
 - (a) register the kindergarten subject to specified conditions; or
 - (b) refuse to register the kindergarten.

Minister to notify decision within 3 months

25 **189.** The Minister, within 3 months after the application is received, is to notify the applicant in writing of the decision and, if registration is refused, of the reasons for the refusal.

cl. 190

Registration

190. (1) The Minister is to issue a certificate of registration to the governing body of a community kindergarten that is registered under this Part.

5 (2) The registration of a community kindergarten has effect indefinitely unless the registration is cancelled under section 193.

(3) The chief executive officer is to keep a register of community kindergartens that are registered under this Part.

10 Amendment of conditions

191. (1) Where under section 188 (2) (a) a community kindergarten is registered subject to conditions, the Minister may decide to —

(a) impose any new condition; or

15 (b) change or remove an existing condition.

(2) The Minister is not to make a decision under subsection (1) without first consulting the governing body of the kindergarten.

20 (3) The Minister is to give written notice of any decision under subsection (1) to the governing body of the kindergarten and the decision does not take effect until —

(a) 14 days after the notice is given; or

(b) such later time as is set out in the notice.

Age limit on attendance

192. (1) It is a condition of every registration of a community kindergarten that a child is not to attend the community kindergarten in a year unless —

- 5 (a) the first year of the child's pre-compulsory education period falls in that year; or
- (b) if paragraph (a) does not apply, the child's attendance is approved by the chief executive officer.

(2) The chief executive officer may —

- 10 (a) attach any condition to; or
- (b) revoke,

an approval under subsection (1) (b).

Cancellation of registration

15 **193.** (1) The Minister may cancel the registration of a community kindergarten at any time if the Minister is satisfied —

- (a) that the buildings or facilities of the kindergarten present a risk to the safety or health of the children or staff at the kindergarten;
- 20 (b) that there has been mismanagement by the governing body or its management committee;
- (c) that the kindergarten or its governing body is not complying with —
- (i) this Act;
- 25 (ii) any relevant requirement of the *Curriculum Council Act 1997*;

cl. 194

(iii) any condition of the kindergarten's registration;
or

(iv) a direction given under section 195;

or

5 (d) that it is in the best interests of the children at the kindergarten to do so.

(2) The Minister is not to cancel the registration of a community kindergarten without first —

10 (a) notifying the governing body of the proposed cancellation and of the reasons for it; and

(b) giving the governing body a reasonable opportunity to show why the registration should not be cancelled.

(3) Subsection (2) does not apply if in the opinion of the Minister the health or welfare of persons may be at risk if the
15 registration is not cancelled immediately.

(4) The Minister is to give written notice of the cancellation to the governing body.

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

20 Review of decisions in relation to registration

194. (1) The governing body of a kindergarten may apply in writing to the Minister for a review of a decision of the Minister —

25 (a) to refuse to register the kindergarten as a community kindergarten;

(b) concerning a condition to which the kindergarten's registration is subject; or

(c) to cancel the kindergarten's registration.

5 (2) The application is to be made within 28 days after the applicant received written notice of the decision.

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

10 (4) A Community Kindergarten Registration Advisory Panel is to give the applicant the opportunity to be heard.

(5) The Minister is to give a copy of the report of the Community Kindergarten Registration Advisory Panel to the applicant.

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

(7) In this section —

20 **“Community Kindergarten Registration Advisory Panel”** means an advisory panel under section 234 established for the purposes of subsection (3) of this section.

25 ***Division 3 — Operation and management of community kindergartens***

Minister may give directions

30 **195.** (1) The Minister may give directions in writing to the governing body of a community kindergarten requiring the governing body to observe any standard for the time being determined under section 187 (2).

(2) A governing body is to comply with a direction so given.

cl. 196

Extent of role of governing body as to certain matters

5 **196.** (1) With the approval of the Minister and subject to the regulations, a governing body for a community kindergarten or its management committee may take part in the selection of teaching staff for the kindergarten.

(2) The governing body of a community kindergarten cannot —

- 10 (a) intervene in the educational instruction of children; or
(b) exercise authority over teaching staff or other persons appointed under section 229 (2) who are employed at the kindergarten.

(3) The number of children that may attend a community kindergarten is to be determined by the chief executive officer.

Certain staff to be appointed by chief executive officer

15 **197.** The chief executive officer is to appoint such number of teaching staff and other persons under section 229 (2) as the chief executive officer considers appropriate for the provision of an educational programme at a community kindergarten.

Functions of kindergarten teachers

20 **198.** (1) The functions of teaching staff in a community kindergarten are —

- (a) to foster and facilitate learning in children;
(b) to give competent instruction to children in accordance with —
25 (i) the curriculum; and

- (ii) standards determined by the chief executive officer,
- and to undertake the preparation necessary to do so;
- 5 (c) to undertake regular evaluation and reporting of the progress of children;
- (d) to be answerable for the educational achievement of children under his or her instruction to a principal nominated, or an officer designated by, the chief executive officer;
- 10 (e) to supervise children and to maintain proper order and discipline on their part;
- (f) to carry out administrative duties to meet organizational requirements relevant to the teacher's functions; and
- 15 (g) to perform any other prescribed function assigned by the chief executive officer.
- (2) The functions set out in subsection (1) have effect subject to —
- (a) this Act; and
- 20 (b) the instructions of the chief executive officer.

Curriculum and enrolment

- 199.** (1) Sections 67 and 68 have effect as if the references in those sections to government schools included community kindergartens.
- 25 (2) The enrolment of a child at a community kindergarten is to be in accordance with the regulations.

cl. 200

Limitation on fees for instruction and charges

200. (1) Except as provided by this section, no fee or charge may be imposed or collected for the cost of providing an educational programme of a community kindergarten.

5 (2) Regulations may be made providing for charges that may be made for —

(a) materials provided in an educational programme of a community kindergarten; and

10 (b) services or facilities for use in, or associated with the provision of, an educational programme of a community kindergarten.

(3) Regulations may provide for the manner of determining a charge, the kind of charge that is able to be charged for the purposes of this section, the limits of such charges and any other matter relevant to such charges and their recovery.

15

Management and control of community kindergarten premises

201. Regulations made under section 114 (2) (a), (b), (f), (g), (h), (i) and (j) have effect as if the references in those paragraphs —

20 (a) to school premises included community kindergarten premises; and

(b) to school officials included teaching staff and other persons appointed under section 229 (2) who are employed at a community kindergarten.

Dealing with persons disrupting community kindergarten premises and dissemination of certain information on community kindergarten premises

5 **202.** Sections 115 and 116 have effect as if the references in those sections —

- (a) to a government school included a community kindergarten; and
- (b) to a principal included a principal or an officer referred to in section 198 (1) (d).

10 **Chief executive officer may allocate moneys**

203. (1) The chief executive officer may, in accordance with the regulations, allocate moneys that have been appropriated by Parliament for the purpose of assisting community kindergartens.

15 (2) Moneys may only be allocated under this section in respect of children who are —

- (a) entitled to reside permanently in Australia; or
- (b) members of a class of children prescribed by the regulations.

20 (3) Regulations may be made providing for the allocation of moneys referred to in subsection (1).

Accountability

25 **204.** (1) The chief executive officer may require a governing body to furnish to the chief executive officer a report as to the application of moneys provided under this Part.

cl. 205

(2) If —

(a) the governing body fails to furnish any report required by the chief executive officer; or

5 (b) any condition, limitation or restriction on the use of moneys is not complied with,

the chief executive officer may recover the moneys as a debt in a court of competent jurisdiction.

Regulations

10 **205.** Regulations may be made for the regulation and control of community kindergartens.

PART 6 — ADMINISTRATION

What this Part is about

This Part deals with —

- 5 • *the functions and powers of the Minister including the power of delegation (Division 1);*
- *a department of the public service, and its chief executive officer, to assist the Minister in the administration of the Act, other than Part 4 (which is about non-government schools) (Division 2);*
- 10 • *the appointment, management and discipline of teaching staff and non-teaching staff (Division 3);*
- *the establishment of panels to advise on aspects of the operation of the Act (Division 4).*

Division 1 — The Minister

15 **Definition**

206. In this Division —

“property” means property of every kind, whether real or personal, tangible or intangible, corporeal or incorporeal, and any interest in property.

20 **Minister to be body corporate**

207. (1) For the purposes of this Act the Minister is a body corporate with the name “Minister for Education”.

cl. 208

(2) The corporate identity of the body corporate referred to in subsection (1) is the same as that continued by section 5 of the Act repealed by section 239 and the continuation of the corporate identity is not affected by the repeal.

5 (3) The Minister —

- (a) has perpetual succession;
- (b) is to have a common seal; and
- (c) may sue and be sued in the Minister's corporate name.

Property vested in Minister

10 **208.** Property acquired or held for the purposes of this Act is vested in the Minister.

Powers of Minister

15 **209.** (1) The Minister may do all things necessary or convenient to be done for the purpose of furthering the best interests of students and educational programmes in government schools.

(2) Without limiting subsection (1) the Minister may for the purpose mentioned —

- 20 (a) acquire, hold, manage, improve, develop and dispose of property or an interest in property;
- (b) accept any gift, devise or bequest if it is absolute or subject to conditions to which the Minister agrees;
- 25 (c) subject to section 210, participate in any business arrangement and acquire, hold and dispose of shares, units or other interests in, or relating to, a business arrangement;

- (d) allow persons to undertake advertising or sponsorship in connection with educational activities in government schools;
 - (e) enter into any contract or arrangement;
 - 5 (f) turn to account any resource or intellectual property that is vested in the Minister;
 - (g) apply for, hold, exploit and dispose of any patent, patent rights, design rights, copyright, trademark or similar rights; and
 - 10 (h) use the expertise and resources of the department to provide consultancy, advisory or other services for profit.
- (3) The Minister may for the purpose of furthering education whether in the government or non-government schools —
- 15 (a) act as trustee of any trust for educational purposes; or
 - (b) grant allowances, awards and scholarships.
- (4) In exercising any power under this section the Minister may act in conjunction with —
- (a) any person or firm, or a public authority; or
 - 20 (b) any department of the Public Service or any agency of the State or the Commonwealth.
- (5) An agreement or arrangement for advertising or sponsorship in relation to a government school is not to be entered into by the principal of the school acting —
- 25 (a) in exercise of the power conferred by subsection (2) (d); and

cl. 210

(b) as the subdelegate of the Minister under section 213,

unless the Council for that school has approved the agreement or arrangement.

(6) In subsection (2) —

5 **“acquire”** includes taking on lease or licence or in any other manner in which an interest in property may be acquired;

10 **“business arrangement”** means a company, a partnership, a trust, a joint venture, or an arrangement for sharing profits;

“dispose of” includes dispose of by way of lease;

“participate” includes form, promote, establish, enter, manage, dissolve, wind up, and do anything incidental to participating in a business arrangement.

15 **Treasurer to consider proposals under section 209 (2) (c)**

210. (1) Before the Minister exercises any power conferred by section 209 (2) (c) he or she is to —

(a) notify the Treasurer of the proposal; and

(b) seek the Treasurer’s approval to it,

20 unless it is of a kind that the Treasurer has determined in writing need not be so notified.

(2) If the Treasurer approves the proposal, he or she may impose requirements to be complied with by the Minister in connection with it.

(3) The Treasurer may also give directions to be complied with generally by the Minister in the exercise of the powers referred to in subsection (1).

Licences for use of certain property

5 **211.** (1) This section applies to a licence granted by the Minister to a person for the use of tangible property that is vested in the Minister.

(2) A licence to which this section applies —

- (a) must be in writing;
- 10 (b) is not to be granted for more than the allowed period but may at the Minister's option be renewed once or more than once for a period or successive periods, each not exceeding the allowed period;
- 15 (c) may provide for a payment to be made by the licensee in connection with the use of the property;
- (d) may provide for an amount of money to be paid by the licensee as security for the performance of the licensee's obligations under the licence; and
- 20 (e) is otherwise to be on such terms and subject to such conditions as the Minister thinks fit.

(3) The use of property in respect of which a licence to which this section applies is not limited to the purposes of school education but the use must not interfere with the normal operations of any school to which the property relates.

25 (4) A licence for the use of tangible property that is vested in the Minister is not to be granted if the use of the property would adversely affect the safety or welfare of students, teaching staff or other persons employed at any school to which the property relates.

cl. 212

(5) In subsection (2) (b) —

“allowed period” means —

- (a) in the case of a licence granted by the Minister, 5 years; or
- 5 (b) in the case of a licence granted by a subdelegate of the Minister acting under section 218, 2 years.

Licences for community use of certain property

212. (1) This section applies if a licence to which section 211 applies (**“the licence”**) is granted to give effect to arrangements entered into by the Minister with a local government —

- (a) to enable tangible property vested in the Minister to be used by the community for purposes that do not interfere with the normal operations of a school; and
- 15 (b) to provide for the management and control of such use.

(2) If this section applies, section 211 (2) (b) does not apply to the licence.

(3) If this section applies, the licence may provide for —

- 20 (a) the establishment, composition, powers and duties of a management committee to manage and control the use of the property in accordance with the licence;
- (b) a payment to be made to the Minister by the local government by way of contribution towards the costs incurred in the provision of the facilities; and
- 25 (c) the appointment and remuneration of staff with respect to the use of the land and facilities.

When school fund to receive money paid under certain licences

213. Where —

- (a) a licence to which section 211 applies —
 - 5 (i) relates to property in respect of a particular school; and
 - (ii) requires an amount of money to be paid in accordance with section 211 (2) (c) or (d);and
- 10 (b) the licence is granted by a subdelegate of the Minister acting under section 218 and the subdelegation expressly states that this section is to apply,

subject to section 106 (4), the money is to be credited to the General Purposes Fund of the school in accordance with
15 section 107 (1) (d).

When school fund to receive money paid for advertising or sponsorship

214. Where —

- 20 (a) an agreement or arrangement for advertising or sponsorship in relation to a government school is entered into by the principal of the school acting —
 - (i) in exercise of the power conferred by section 209 (2) (d); and
 - 25 (ii) as the subdelegate of the Minister under section 218;

cl. 215

and

- (b) the subdelegation expressly states that this section is to apply,

5 any money payable for the advertising or sponsorship is to be credited to the General Purposes Fund of the school in accordance with section 107 (1) (d).

Power to exempt

215. (1) The Minister may, by order published in the *Government Gazette* —

10 (a) exempt a school or class of schools —

(i) from the provisions of this Act that are specified in the order; and

(ii) for the period specified in the order;

and

15 (b) amend or repeal an order made under paragraph (a).

(2) An exemption given for the purposes of this section is of no effect at any time when a condition imposed in relation to the exemption is being contravened.

20 (3) Section 42 of the *Interpretation Act 1984* applies to an order under subsection (1) as if the order were regulations within the meaning of that Act, except that the reference in section 42 (1) of that Act to 6 sitting days is, for the purposes of its application to the order, to be construed as a reference to 9 sitting days.

Review by Minister or delegate

216. (1) A person who is aggrieved by a decision —

(a) made by any person performing a function for the purposes of school education; and

5 (b) concerning an individual student,

may, in addition to any other right under this Act to have the decision reviewed, request the Minister to review the procedure by which the decision was made.

10 (2) The Minister may, but is not obliged to, conduct a review under this section.

(3) If, on a review under this section, the Minister is of the opinion that —

(a) the decision was made without compliance with the applicable procedure;

15 (b) the procedure by which the decision was made was unfair, defective or inadequate; or

(c) the information available to the person who made the decision was inadequate,

20 the Minister may recommend that the person who made the decision review the procedure and may recommend the procedure or information that the Minister thinks is appropriate for that review.

25 (4) The Minister may by instrument delegate to any person, other than the chief executive officer or the chief executive officer referred to in section 145, the powers conferred on him or her by this section, except this power of delegation.

cl. 217

(5) Performance of a function by a delegate under this section is to be treated as performance by the Minister.

(6) The regulations may regulate the practice and procedure of reviews under this section.

5 Delegation

217. (1) The Minister may, by instrument, delegate to the chief executive officer the performance of any of the Minister's functions except those under section 54, 161, 194 or 215.

10 (2) Subsection (1) has effect subject to sections 11 (6), 21 (2) and 216 (4).

(3) A delegation may be general or as otherwise provided by the instrument of delegation.

15 (4) Where the chief executive officer performs a function of the Minister he or she is to be taken to do so in accordance with the terms of a delegation under this section, unless the contrary is shown.

(5) Performance of a function by the chief executive officer under this section is to be treated as performance by the Minister.

20 Subdelegation

218. (1) The Minister may, in an instrument by which a function is delegated to the chief executive officer under section 217, authorize the chief executive officer to subdelegate that function to —

- 25 (a) a specified officer; or
(b) the holder or holders for the time being of a specified office or class of office.

(2) Apart from subsection (1), a delegation under section 217 does not include the power to subdelegate.

(3) Section 59 of the *Interpretation Act 1984* applies to a subdelegation under this section in the same way as it applies to a delegation.

(4) In this section —

“**officer**” means a person who comes within a class referred to in section 228 (1), and “**office**” has a corresponding meaning.

10 **Documents presumed duly executed**

219. When a document is produced bearing a seal purporting to be the common seal of the Minister, it is to be presumed until the contrary is shown that the seal is the seal of the Minister and has been duly affixed.

15 **Accountability under this Division**

220. Any acts or things done by the Minister under this Division are to be regarded —

- 20
- (a) as services under the control of the department for the purposes of section 52 of the *Financial Administration and Audit Act 1985*; and
 - (b) as operations of the department for the purposes of Division 13 of Part II of that Act.

Division 2 — The department

Department

25 **221.** There is to be a department of the Public Service with a function of principally assisting the Minister in the administration of this Act, other than in relation to —

- (a) Part 4; and

cl. 222

- (b) the application of any other provision of this Act to students enrolled at non-government schools.

Chief executive officer

- 5 **222.** References in this Act, other than Part 4, to the chief executive officer are, unless a contrary intention appears, references to the chief executive officer appointed for the department under section 45 of the *Public Sector Management Act 1994*.

Delegation by chief executive officer

- 10 **223.** (1) The chief executive officer may, by instrument, delegate to an officer the performance of any of the functions conferred on the chief executive officer by this Act except this power of delegation.

- 15 (2) A delegation may be general or as otherwise provided by the instrument of delegation.

(3) Where an officer performs a function of the chief executive officer he or she is to be taken to do so in accordance with the terms of a delegation under this section, unless the contrary is shown.

- 20 (4) Performance of a function by an officer under this section is to be treated as performance by the chief executive officer.

- (5) In this section —

“**officer**” means a person who comes within a class referred to in section 228 (1).

Minister may give directions to the chief executive officer

5 **224.** (1) The Minister may give directions in writing of a general nature to the chief executive officer with respect to the performance of a function that is vested in the chief executive officer by this Act, and the chief executive officer is to give effect to any such direction.

(2) The Minister cannot under subsection (1) give a direction in relation to a particular person.

10 (3) The text of any direction given under subsection (1) is to be included in the annual report submitted by the accountable authority in respect of the department under section 66 of the *Financial Administration and Audit Act 1985*.

Chief executive officer may give directions to a principal

15 **225.** The chief executive officer may give directions in writing to the principal of a government school with respect to the performance of the principal's functions under this Act, either generally or in relation to a particular matter, and the principal is to give effect to any such direction.

CEO's Instructions

20 **226.** (1) The chief executive officer may prepare and issue instructions ("**CEO's Instructions**") to be observed by persons performing functions in the department.

(2) The CEO's Instructions must not be inconsistent with this Act.

25 (3) Sections 9, 10, 15, 43 (4) and 43 (7) to (9) of the *Interpretation Act 1984* apply to the CEO's Instructions as if they were regulations.

cl. 227

- (4) A breach of the CEO's Instructions committed by a person is not to be an offence but is to be treated for the purposes of paragraph (a) of section 80 of the *Public Sector Management Act 1994* (including that paragraph as applied by section 232) as the disobedience by that person of a lawful order.

Division 3 — Staff employed in the department

Definitions

227. In this Division —

10 “**other officers**” means officers referred to in section 228 (1) (c);

 “**teaching staff**” means teaching staff referred to in section 228 (1) (b);

 “**the PSMA**” means the *Public Sector Management Act 1994*.

15 **Categories of staff**

228. (1) To enable the functions of the department to be performed persons are to be employed in the department —

- (a) as public service officers appointed or made available under Part 3 of the PSMA;
- 20 (b) as members of the teaching staff;
- (c) as other officers; or
- (d) as wages staff.

(2) A person is not to be employed as a member of the teaching staff unless the person holds a qualification recognized

by the chief executive officer as being an appropriate qualification.

(3) Subsection (1) does not affect the power of the chief executive officer to engage a person under a contract for services
5 under section 100 of the PSMA.

Provisions applicable to teaching staff, other officers and wages staff

229. (1) Part 3 of the PSMA does not apply to the teaching staff, other officers and wages staff.

10 (2) The powers to engage, transfer, promote and otherwise manage the members of the teaching staff, other officers and wages staff are vested in the chief executive officer.

(3) The terms and conditions of service of members of the teaching staff, other officers and wages staff are to be —

15 (a) in accordance with any relevant industrial award, order or agreement; and

(b) not less than those provided for by the *Minimum Conditions of Employment Act 1993*.

20 (4) Members of the teaching staff and other officers may be engaged —

(a) on a full-time or part-time basis; and

(b) for an indefinite period as permanent officers, or for a period not exceeding 5 years.

25 (5) Nothing in this section affects the operation of the *Workplace Agreements Act 1993*.

cl. 230

(6) For the avoidance of doubt it is declared that members of the teaching staff, other officers and wages staff are employed for and on behalf of the Crown.

Classification of teaching staff

5 **230.** Without limiting section 29 (1) (h) of the PSMA the teaching staff is to consist of the following classes —

- (a) school administrators, that is —
 - (i) principals; and
 - 10 (ii) any other office or position, or class of office or position, prescribed by the regulations;
- (b) teachers other than school administrators; and
- (c) any other class prescribed by the regulations.

Transfer of teacher to another category of employee

15 **231.** (1) The chief executive officer may, if he or she considers that it is in the interests of the department to do so, determine that —

- (a) a person who is a member of the teaching staff is to become an officer of the class mentioned in section 228 (1) (a) or (c); or
- 20 (b) a person who has been the subject of a determination under paragraph (a) of this subsection is to again become a member of the teaching staff.

25 (2) Except where section 232 (2) applies, a determination under subsection (1) of this section is only to be made with the consent of the person concerned.

(3) Regulations may be made in respect of the entitlement of persons who are the subject of a determination under subsection (1) to rights and benefits that had accrued or were accruing at the time when the determination took effect.

5 Teaching staff and other officers, substandard performance and disciplinary matters

232. (1) Part 5 of the PSMA has effect as if in that Part references to —

(a) an employee included —

- 10 (i) a member of the teaching staff; and
(ii) an officer who comes within section 228 (1) (c);

and

- 15 (b) an employing authority that is not the Minister (within the meaning in that Part) included references to the chief executive officer.

20 (2) In addition to the actions that may be taken under the provisions of sections 79 (3) and 86 (3) (b) (ii) of the PSMA, the chief executive officer may under those provisions make a determination under section 231 (1) (a) in respect of a member of the teaching staff.

(3) Without limiting section 80 of the PSMA, a contravention of this Act is to be taken to be a breach of discipline for the purposes of that section.

Employee may be ordered to leave school premises

25 **233.** (1) If the chief executive officer suspects —

- (a) that a person employed at the premises of a government school is guilty of an act or omission that

cl. 233

comes within section 80 of the PSMA (whether or not that section applies to the person); and

- 5 (b) that the continued presence of the person on the school premises constitutes a risk to the safety or welfare of students on the premises,

the chief executive officer may, by order in writing given to the person, require him or her to leave the school premises and remain away —

- 10 (c) until —
- (i) in the case of a member of the wages staff, any relevant procedures have been followed; or
 - (ii) in the case of other staff proceedings against the person are terminated (within the meaning of section 82 (2) of the PSMA);
- 15 or
- (d) until the order is sooner revoked.

(2) The chief executive officer is to ensure that written reasons for issuing an order under subsection (1) are provided with the order.

- 20 (3) A person must comply with an order given to him or her under subsection (1).

Penalty: \$5 000 or imprisonment for 6 months.

(4) The power conferred by this section is in addition to the powers in Part 5 of the PSMA.

Division 4 — Advisory panels

Advisory panels

234. (1) Without limiting section 39, 87 or 93 the Minister may establish advisory panels for the purposes of this Act.

5 (2) The Minister is to determine —

- (a) provisions for the membership, constitution, procedures and discharge of an advisory panel; and
- (b) in what circumstances and on what matters the panel is to advise.

10 (3) The members of an advisory panel are to be persons who have such experience, skills, attributes or qualifications as the Minister considers appropriate to enable them to effectively perform their advisory function.

15 (4) Subject to this section, an advisory panel may determine its own procedure.

(5) The Minister is to ensure that each advisory panel is provided with such support services as it may reasonably require.

(6) The Minister may —

- 20 (a) direct that some or all of the members of an advisory panel are to be paid remuneration or allowances or both; and
- (b) determine the amount of any such payments on the recommendation of the Minister for Public Sector Management.

cl. 235

PART 7 — MISCELLANEOUS

What this Part is about

This Part deals with —

- *the requirement of confidentiality (section 235);*
- 5 • *who can take legal proceedings (section 236);*
- *the regulations required for carrying out the Act (section 237);*
- *a review of the Act after 5 years (section 238);*
- 10 • *the repeal of the Education Act 1928 and the transition from that Act to the new Act (section 239 and Schedule 1).*

Confidentiality

235. (1) A person must not disclose or make use of information to which this section applies except —

- (a) in the course of duty;
- 15 (b) for the purpose of proceedings for an offence against this Act;
- (c) under and in accordance with this Act or any other law;
- 20 (d) with the authority of the Minister or all persons to whom the information relates; or
- (e) in other prescribed circumstances.

Penalty: \$5 000 or imprisonment for 6 months.

(2) This section applies to information contained in any register or document of or in the possession or under the control of —

- (a) the Minister;
- 5 (b) the chief executive officer or the chief executive officer referred to in section 145, as is relevant to the case;
- (c) the department or the department referred to in section 221, as is relevant to the case;
- (d) the principal of a government school; or
- 10 (e) a panel appointed for the purposes of this Act.

Legal proceedings

236. (1) Any proceedings for an offence under this Act, other than for an offence under section 45, and any proceedings under section 102 may be taken in the name of the chief executive officer or a person authorized in that behalf by the chief executive officer.

(2) In any proceedings no proof is required of —

- (a) the appointment of the chief executive officer; or
 - (b) the authorization of a person under subsection (1),
- 20 but an averment in a complaint that the person is so appointed or authorized is to be taken to be proved in the absence of evidence to the contrary.

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

cl. 237

Regulations

5 **237.** (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for carrying out, or giving effect to the purposes of, this Act.

(2) Without limiting subsection (1) the regulations may —

- 10 (a) create offences punishable by a fine not exceeding \$2 000;
- (b) confer power on the Minister to grant exemptions from provisions of the regulations, and to impose conditions subject to which an exemption applies; and
- (c) regulate the practice and procedure of advisory panels established by or under this Act.

Review of Act

15 **238.** (1) The Minister is to carry out a review of the operation and effectiveness of this Act not later than 5 years after its commencement.

20 (2) The Minister is to prepare a report based on the review carried out under subsection (1) and, as soon as practicable after that preparation, is to cause that report to be laid before each House of Parliament.

Repeal, savings and transitional

239. (1) The *Education Act 1928* is repealed.

(2) The *Education Regulations 1960* are repealed.

25 (3) The *School Premises Regulations 1981* are repealed.

(4) Schedule 1 has effect to make transitional provisions.

Consequential amendments

240. The Acts specified in Schedule 2 are amended as set out in that Schedule.

Sch. 1

SCHEDULE 1 — TRANSITIONAL PROVISIONS

[Section 239 (4)]

Definitions

1. In this Schedule —

- 5 “**commencement**” means the commencement of this Act;
 “**repealed Act**” means the *Education Act 1928*.

***Interpretation Act 1984* not affected**

2. The provisions of this Schedule do not affect the application of the *Interpretation Act 1984* to and in relation to the —

- 10 (a) repeal effected by section 239; or
 (b) any other aspect of the operation of this Act.

Property vested in Minister

3. All property that immediately before the commencement is vested
15 in the Minister under section 6 of the repealed Act is, on the commencement, vested in the Minister for the purposes of section 208.

Delegations under section 6AA

4. A delegation under section 6AA of the repealed Act that is in force immediately before the commencement is to be taken on the commencement to be a delegation under section 217.

20 **Agreements and licences under section 6A**

5. An arrangement entered into, and a licence granted, under section 6A of the repealed Act that are in force immediately before the commencement are to be taken on the commencement to be respectively —

- 25 (a) an arrangement entered into under section 212; and
 (b) a licence to give effect to that arrangement granted in terms of subsection (2) of that section.

Licences under section 6B

6. (1) Section 211 (3) applies to a licence under section 6B of the repealed Act for the use of tangible property vested in the Minister that is in force immediately before the commencement.

5 (2) Section 213 applies to a licence referred to in subclause (1) if immediately before the commencement it came within section 6C of the repealed Act.

Staff

7. (1) A person —

- 10 (a) appointed by the Minister as a teacher in the Education Department under section 7 (2) of the repealed Act; and
- (b) holding office as such immediately before the commencement,

15 is to be taken on the commencement to have been engaged as a member of the teaching staff under section 229 (2).

(2) A person —

- (a) appointed by the Minister as an employee (other than as a teacher) in the Education Department under section 7 (2) of the repealed Act; and
- 20 (b) employed under that section immediately before the commencement,

is to be taken on the commencement to have been engaged as an officer (not being a member of the teaching staff) referred to in section 229 (2).

25 (3) The operation of this clause in relation to a person's employment does not —

- (a) affect the person's remuneration or terms and conditions of employment;
- (b) prejudice the person's existing or accruing rights;
- (c) affect any rights under a superannuation scheme; or
- 30 (d) interrupt continuity of service.

Sch. 1

Inquiries under section 7C

8. (1) If before the commencement an inquiry under section 7C (3) of the repealed Act has begun in relation to a teacher, the inquiry may continue and be completed and —

- 5 (a) the chief executive officer may exercise powers under the section; and
 (b) the section otherwise applies,

in relation to the teacher as if the section had not been repealed.

10 (2) For the purposes of subsection (1) an inquiry has begun under section 7C (3) if the chief executive officer has in writing requested a person to hold the inquiry.

Enrolments

15 **9.** (1) The enrolment of a student at a government school that has effect immediately before the commencement is to be taken as an enrolment under this Act.

(2) Subclause (1) applies whether or not the enrolment is in accordance with Division 4 of Part 3, but does not limit the exercise of the powers in section 20, 83 or 92 (4).

Government schools

20 **10.** A government school that immediately before the commencement is in existence as a primary school or a secondary school under section 9 of the repealed Act is to be taken on the commencement to have been established under section 55 with the same classification.

Efficient schools

25 **11.** (1) A school that immediately before the commencement is registered in the register of efficient schools under section 32B of the repealed Act is to be taken on the commencement to be registered under section 153.

30 (2) If a school referred to in subclause (1) is included in an order under section 162 it is to be taken to be registered as a system school for the purposes of section 149 (2).

(3) Subject to Part 4, the registration provided for by subclause (1) continues in force for 3 years from the commencement.

Certain existing pre-school centres continued as registered schools

12. (1) A pre-school centre —
- 5 (a) for which a permit was in force under Part VIA of the repealed Act immediately before the commencement; and
- (b) which does not have on its staff any employee who comes within a class referred to in section 228 (1),
- 10 is to be taken after the commencement to be registered under section 153 as a non-system school as if the permit were a certificate of registration under section 155.
- (2) Subject to Part 4, the registration provided for by subclause (1) continues in force for 3 years from the commencement.

Certain existing care-centres and pre-school centres continued

13. (1) A care-centre or a pre-school centre —
- 15 (a) for which a permit was in force under Part VIA of the repealed Act immediately before the repeal; and
- (b) which has on its staff any employee who comes within a class referred to in section 228 (1),
- 20 may continue in operation, but is to be known as a community kindergarten.
- (2) A permit referred to in subclause (1) continues in force as a registration under Part 5.
- (3) Despite sections 185 and 192 (1) (a), a child may attend a community kindergarten continued by this clause in a year other than
- 25 the first year of the child's pre-compulsory education period until 1 January 2001.

Superannuation of former employees of the W.A. Pre-School Board

14. (1) This clause applies to a teacher who —
- 30 (a) immediately before he or she became a teacher was —
- (i) an employee of the Western Australian Pre-School Board; and

School Education Bill 1997

Sch. 1

(ii) a contributor to a scheme maintained by that Board for the purposes of making financial provision for the retirement, invalidity or death of employees of that Board;

5 and

(b) has not become a contributor for the purposes of the *Superannuation and Family Benefits Act 1938* or a member for the purposes of the *Government Employees Superannuation Act 1987*.

10 (2) The Minister may, with the approval of the Treasurer, participate in and make contributions under the scheme referred to in subclause (1) in respect of a teacher referred to in that subclause.

Notices under section 9A

15 **15.** (1) A notice under section 9A (2) of the repealed Act that is in force immediately before the commencement is to be taken on the commencement to be an order under section 176.

(2) Guidelines referred to in section 9A (5) (b) of the repealed Act that are in operation immediately before the commencement continue in operation after the commencement for the purposes of section 177 (b).

20 Bank account

16. A bank account that immediately before the commencement is an approved account for the purposes of section 9B (5) (b) of the repealed Act is to be taken on the commencement to have been approved for the purposes of section 108 (1).

25 Registration for home education

17. A decision under section 14 (a) of the repealed Act (that the instruction of a child at home is efficient) that is in force immediately before the commencement is to be taken on the commencement to be a registration under section 48.

30 Directions under section 20A

18. A direction under section 20A of the repealed Act that is in force immediately before the commencement continues in force despite the repeal but may at any time be revoked by the chief executive officer.

Suspension and exclusion of students

19. (1) A suspension under section 20G (1) of the repealed Act that is in force immediately before the commencement is to be taken on the commencement to be a suspension under section 90.

5 (2) If before the commencement a recommendation has been made under section 20G (2) of the repealed Act but no determination has been made by the Minister, the recommendation is to be treated after the commencement as if it had been made to the chief executive officer under section 92 (1).

10 (3) An order under section 20G (4) of the repealed Act that is in force immediately before the commencement —

- (a) is to be taken on the commencement to be an order made by the chief executive officer under section 92 (4); and
- (b) may be revoked or amended under section 94 (3).

15 **School decision-making groups**

20. (1) A school decision-making group for a government school that immediately before the commencement is in existence under Part VA of the repealed Act is to be taken on the commencement to be the Council established for the school under section 120.

20 (2) Regulations may be made under section 237 providing for —

- (a) the way in which matters relating to Councils referred to in subclause (1) are to be changed so that they conform to the requirements of Subdivision 1 of Division 8 of Part 3; and
- (b) the time by which those changes are to be made.

25 **Parents and Citizens' Associations**

21. A Parents and Citizens' Association for a government school or group of schools that immediately before the commencement is in existence under Part VI of the repealed Act is to be taken on the commencement to be the Parents and Citizens' Association formed for the school or group of schools under section 136.

Transitional on repeal of *Industrial Relations Act 1979* s. 23B

22. An appeal in respect of any matter referred to in section 23B (1) (a), (b) or (c) of the *Industrial Relations Act 1979* arising before the commencement of this Act may be —

35 (a) determined;

Sch. 1

- (b) heard and determined; or
- (c) instituted, heard and determined,

as the case requires, under the *Industrial Relations Act 1979* as if section 23B of that Act had not been repealed by this Act.

5 Transitional regulations

23. (1) If there is no sufficient provision in this Schedule for dealing with a matter that needs to be dealt with for the purpose of the transition from the repealed Act to this Act, regulations may prescribe all matters that are required or necessary or convenient to be prescribed for dealing with the matter.

10

(2) Regulations under subclause (1) may provide that specific provisions of this Act or of subsidiary legislation made under this Act —

- (a) do not apply; or
- (b) apply with or without specified modifications,

15

to or in relation to any matter or thing.

(3) Regulations under subclause (1) may have effect before the day on which they are published in the *Government Gazette*.

(4) To the extent that a regulation under subclause (1) has effect before the day of its publication in the *Government Gazette*, it does not —

20

- (a) affect in a manner prejudicial to any person (other than the State), the rights of that person existing before the day of its publication; or
- (b) impose liabilities on any person (other than the State) in respect of anything done or omitted to be done before the day of its publication.

25

SCHEDULE 2 — CONSEQUENTIAL AMENDMENTS

[Section 240]

Adoption Act 1994

5 Schedule 1 is amended by deleting clause 2 (1) (f) and substituting the following —

“
10 (f) a person employed as a member of the teaching staff within the meaning of the *School Education Act 1997* or as a teacher of a non-government school within the meaning of that Act;
”.

Child Welfare Act 1947

1. Section 40A is amended by deleting “, or under section 17B or 18 of the *Education Act 1928*,”.
15 2. Section 52 (1) is amended by deleting “*Education Act 1928*” and substituting the following —

“ *School Education Act 1997* ”.

3. Section 106 is amended by deleting “section 13 (4) of the *Education Act 1928*” and substituting the following —
20 “ section 11 of the *School Education Act 1997* ”.

Children’s Court of Western Australia Act 1988

Section 20 (b) is deleted and the following paragraph is substituted —

“
25 (b) under section 29 or 38 (1) of the *School Education Act 1997*
”.

Community Services Act 1972

1. Section 3 is amended in the definition of “child care service” in paragraph (ff) by deleting “required to be authorized by permit under Part VIA of the *Education Act 1928*” and substituting the following —
30

“
of a kind provided at a community kindergarten registered under Part 5 of the *School Education Act 1997*
”.

School Education Bill 1997

Sch. 2

2. Section 3 is amended in the definition of “pre-school age” by deleting “below the minimum age for admission to year 1 of a Government primary school” and substituting the following —

“
5 before the child reaches the compulsory education period within
the meaning of the *School Education Act 1998*”.

Constitution Acts Amendment Act 1899

10 Schedule V is amended, in Part 2, Division 2, by deleting “*Education Act 1928*” and substituting the following —

“ *School Education Act 1997* ”.

Country High School Hostels Authority Act 1960

Section 11 (1) (b) is amended by deleting “section six of the *Education Act, 1928*” and substituting the following —

15 “ section 208 of the *School Education Act 1997* ”.

Curriculum Council Act 1997

1. Section 3 is amended —

20 (a) in the definition of “Education Department” by deleting
“has the same meaning as in the *Education Act 1928*” and
substituting the following —

“
means the department referred to in section 221 of
the *School Education Act 1997*”;

25 (b) in the definition of “education provider” by deleting
paragraph (b) and substituting the following paragraph —

30 “ (b) in relation to a student, a parent of the student
who is registered under the *School Education
Act 1997* as the student’s home educator;”;

(c) in the definition of “governing body” in paragraph (a) by
deleting “Government school as defined in the *Education
Act 1928*” and substituting the following —

35 “
government school as defined in the *School Education
Act 1997*”;

(d) by deleting the definition of “home schooling” and substituting the following definition —

5 “ **“home education”**, in relation to a student, means instruction provided by a parent who is registered under the *School Education Act 1997* as the student’s home educator; ”;

10 (e) in the definition of “school” by deleting “, or pre-school centre, as defined in the *Education Act 1928*” and substituting the following —

15 “ as defined in the *School Education Act 1997* or a community kindergarten registered under Part 5 of that Act ”;

and

(f) in the definition of “student” by deleting “home schooling” and substituting the following —

20 “ home education ”.

2. Section 10 (1) (b) is amended by deleting “home schooling to a student is to ensure that the schooling” and substituting the following —

“ home education to a student is to ensure that the education ”.

25 3. Section 10 (2) (a) is amended by deleting “home schooling” and substituting the following —

“ home education ”.

Curtin University of Technology Act 1966

30 1. Section 9 (1) (c) is amended by deleting “*Education Act 1928*” and substituting the following —

“ *School Education Act 1997* ”.

2. Section 29 (1) is amended —

(a) by inserting after “*1928*” the following —

35 “ or section 228 (1) (c) of the *School Education Act 1997* ”;

(b) by deleting “Colleges Act” and substituting the following —

5 “
Colleges Act 1978 or the Vocational Education and
Training Act 1996”;

and

(c) by inserting after “1938” the following —

10 “
or the Government Employees Superannuation
Act 1987”.

4. Section 32 (2) is amended by inserting after “1938” the following —

“ or the Government Employees Superannuation Act 1987 ”.

15 **Education Service Providers (Full Fee Overseas Students) Registration Act 1991**

Section 5 is amended by deleting “Education Act 1928” and substituting the following —

“ School Education Act 1997 ”.

20 **Equal Opportunity Act 1984**

Section 4 (1) is amended in the definition of “private educational authority” by deleting “Education Act 1928” and substituting the following —

“ School Education Act 1997 ”.

25 **Government Employees’ Housing Act 1964**

30 1. Section 5 is amended in the definition of “Department” by deleting “under the administration of a Minister of the Crown in the Government of the State pursuant to the provisions of the Public Service Act, 1904, or the Education Act, 1928” and substituting the following —

35 “
which principally assists the Minister for Public Sector
Management or the Minister in the administration of Part 3 of
the School Education Act 1997”.

School Education Bill 1997

Sch. 2

2. Section 8 (2) is amended by deleting paragraph (c) and substituting the following —

- “
- 5 (c) one shall be the chief executive officer of the department referred to in section 221 of the *School Education Act 1997* or a person employed in that department under section 228 (1) (a), (b) or (c) of that Act, nominated in writing by the chief executive officer;
- ”.

10 ***Health Act 1911***

Section 3 (1) is amended in the definition of “lodging-house” by deleting paragraph (b) and substituting the following paragraph —

- “
- 15 (b) residential accommodation for students in a non-government school within the meaning of the *School Education Act 1997*
- ”.

Industrial Relations Act 1979

20 1. Section 7 (1) is amended by deleting the definitions of “Minister for Education” and “teacher”.

2. Section 23B is repealed.

3. Section 29 (1a) is repealed.

4. Section 31 (1) (c) (ii) is amended by deleting “an appeal under section 23B,”.

25 5. Section 49 (2b) is repealed.

6. Section 80C (1) is amended —

(a) in paragraph (f) of the definition of “Government officer” by deleting “institution.” and substituting the following —

“ institution; ”; and

30 (b) by inserting after the definition of “Government officer” the following definition —

“ **“teacher”** includes —

35 (a) any person employed as a member of the teaching staff under section 228 (1) (b) of the *School Education Act 1997*;

- 5 (b) any person who is a member of the
teaching staff or another person
appointed under section 229 (2) and who
is employed at a community kindergarten
registered under Part 5 of the *School
Education Act 1997*,
- 10 but does not include any public service officer,
whether or not that public service officer holds
or acts in a position in respect of which a
teaching academic qualification is required. ”.

Library Board of Western Australia Act 1951

- 15 1. Section 5 (3) is amended by deleting “Education Department as
defined in the *Education Act 1928*” and substituting the following —
“ department referred to in section 221 of the *School Education
Act 1997* ”.
- 20 2. Section 5 (9) (aa) is amended by deleting “*Education Act 1928*” and
substituting the following —
“ *School Education Act 1997* ”.

Litter Act 1979

- 25 Section 9 (1) (g) is amended by deleting “Education Department as
defined in the *Education Act 1928*” and substituting the following —
“ department referred to in section 221 of the *School Education
Act 1997* ”.

Local Government Act 1995

- 30 Section 6.26 (2) (f) is amended by deleting “private school which is
registered under section 32A (1) of the *Education Act 1928*” and
substituting the following —
“ non-government school within the meaning of the *School
Education Act 1997* ”.
- 35

School Education Bill 1997

Sch. 2

Murdoch University Act 1973

1. Section 12 (1) (b) is amended by deleting “*Education Act 1928*” and substituting the following —

“ *School Education Act 1997* ”.

5 2. Section 28 (1) (b) is amended by deleting “section 6 of the *Education Act 1928*” and substituting the following —

“ section 208 of the *School Education Act 1997* ”.

Museum Act 1969

10 Section 37 (3) (b) is amended by deleting “Education Department as defined in the *Education Act 1928*” and substituting the following —

“
department referred to in section 221 of the *School Education Act 1997*
”.

15 ***Public Education Endowment Act 1909***

1. Section 1A is amended —

20 (a) in the definition of “chief executive officer of the department” by deleting “Education Department as defined in the *Education Act 1928*” and substituting the following —

“
department referred to in section 221 of the *School Education Act 1997*
”;

25 and

(b) in the definition of “purposes of public education” by deleting “Government School, as defined in section 3 of the *Education Act 1928*” and substituting the following —

30 “
government school within the meaning of the *School Education Act 1997*
”.

2. Section 2 is amended by deleting “*Education Act 1928*” and substituting the following —

“ *School Education Act 1997* ”.

Road Traffic Act 1974

5 Section 10 (1) (f) is amended by deleting “*Education Act 1928*” and substituting the following —

“ *School Education Act 1997* ”.

Spent Convictions Act 1988

Schedule 3 is amended, in the Table to clause 2 —

10 (a) in item 1, by deleting “teacher as defined in section 3 of the *Education Act 1928*” and substituting the following —

15 “
a member of the teaching staff within the meaning of the *School Education Act 1997* or as a teacher of a non-government school within the meaning of that Act
”;

and

20 (b) in item 2, by deleting “a care centre or pre-school centre under the *Education Act 1928*” and substituting the following —

25 “
a community kindergarten registered under Part 5 of the *School Education Act 1997*
”.

University of Western Australia Act 1911

Section 10 (e) is amended by deleting “*Education Act 1928*” and substituting the following —

“ *School Education Act 1997* ”.

30 ***Vocational Education and Training Act 1996***

Section 6 (2) is amended by deleting “*Education Act 1928*” and substituting the following —

“ *School Education Act 1997* ”.

School Education Bill 1997

Sch. 2

Western Australian Planning Commission Act 1985

Section 19 (1g) (a) (iv) is amended by deleting “Education Department as defined in the *Education Act 1928*” and substituting the following —

“
5 department referred to in section 221 of the *School Education Act 1997*
”.

Young Offenders Act 1994

10 Section 37 (2) (a) is amended by deleting “*Education Act 1928*” and substituting the following —

“ *School Education Act 1997* ”.

=====