

# **NORTHERN TERRITORY OF AUSTRALIA**

## **EDUCATION REGULATIONS**

As in force at 1 January 2016

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 January 2016

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## EDUCATION REGULATIONS

### Regulations under the *Education Act*

#### Part 1 Preliminary matters

##### 1 Citation

These Regulations may be cited as the *Education Regulations*.

##### 2 Commencement

These Regulations commence on the commencement of Part 1 of the *Education Act 2015*.

##### 3 Definitions

In these Regulations:

***deductible gift recipient***, for Part 5, see regulation 21.

***infringement notice***, for Part 7, see regulation 44.

***infringement notice offence***, for Part 7, see regulation 43(1).

***prescribed amount***, for Part 7, see regulation 43(2).

***school body***, for Part 5, see regulation 21.

***school representative body***, for Part 5, see regulation 21.

##### 4 Disqualifying offences

For the definition ***disqualifying offence*** in section 5 of the Act, the following offences are prescribed:

- (a) an offence against a provision of an Act, or of an Act of the Commonwealth, specified in Schedule 1 subject to any qualification relating to the provision specified opposite it;

- (b) an offence of counselling or procuring the commission of an offence mentioned in paragraph (a);
- (c) an offence of attempting, or of conspiracy or incitement, to commit an offence mentioned in paragraph (a);
- (d) an offence that has, as an element, intention to commit an offence mentioned in paragraph (a);
- (e) an offence committed before the commencement of a provision mentioned in paragraph (a) that would, if committed after that commencement, have constituted an offence mentioned in that paragraph;
- (f) an offence under a law of a State, other Territory or foreign country that, if it had been committed in the Territory, would have constituted an offence mentioned in paragraphs (a) to (e).

## **5 Attending school**

For section 9(2) of the Act, any of the following, approved by the principal of the school, in which a child participates is a prescribed education program:

- (a) a performance, sporting or school representative activity, whether on-campus or off-campus;
- (b) a school excursion;
- (c) an off campus learning activity.

*Examples for regulation 5(a)*

*Singing in a school choir, playing an instrument in a school band, taking part in a sporting event and representing the school in a debate.*

*Examples for regulation 5(b)*

*A school camp and a visit to an off-campus venue.*

*Examples for regulation 5(c)*

*Participation in flexible education arrangements, graduated return to school arrangements and vocational education and training in schools.*

## **Part 2                      Northern Territory Board of Studies**

### **6                      Expert**

For section 23 of the Act, definition **expert**, the following fields are prescribed:

- (a) early childhood education and care;
- (b) primary school education;
- (c) secondary school education;
- (d) special learning needs;
- (e) vocational education and training in schools;
- (f) either:
  - (i) distance education and online education; or
  - (ii) international education;
- (g) education of Aboriginal and Torres Strait Islander children and young persons.

### **7                      Nomination of Board members**

For section 28(2) of the Act, the following is the process by which nominations for, or expressions of interest in, membership of the Board may be sought:

- (a) for section 28(1)(b) and (c) of the Act, the Minister must notify, in any way that the Minister considers appropriate, the bodies mentioned in those paragraphs that nominations are being sought;
- (b) for section 28(1)(d), (e), (f) and (g) of the Act, the Minister must seek expressions of interest in appointment to the Board by:
  - (i) publishing a notice for that purpose in a newspaper circulating in the Territory; and
  - (ii) if the Minister considers it appropriate to do so, notifying any group or body, in any way that the Minister considers appropriate, that expressions of interest are being sought;

- (c) for section 28(1)(h) of the Act, the Minister may, in any way that the Minister considers appropriate (which may include publishing a notice in a newspaper circulating generally in Australia), seek expressions of interest from appropriate persons.

## **8 Eligibility criteria for Board chairperson**

For section 28(5) of the Act, the prescribed eligibility criteria for appointment as chairperson of the Board are knowledge and experience of educational policy and practice in the Territory and nationally.

## **9 Meetings of Board**

- (1) For section 33 of the Act:
  - (a) the Board must meet at least once in each term; and
  - (b) the chairperson may call additional meetings as the chairperson considers necessary; and
  - (c) the Board may hold meetings, or allow members to take part in meetings, by telephone, video conference or another form of communication; and
  - (d) 6 members constitute a quorum at a meeting; and
  - (e) questions arising at a meeting are to be determined by a majority of the votes of the members present and voting; and
  - (f) in the event of an equal number of votes on any question arising at a meeting, the chairperson has a casting vote; and
  - (g) subject to the Act and these Regulations, the Board may determine its own meeting procedure; and
  - (h) the Board must keep records of its meetings in any way that it considers appropriate.
- (2) A member taking part in a meeting as mentioned in subregulation (1)(c) is taken to be present at the meeting.

## **10 Committees of the Board**

For section 34(3) of the Act, a member of a committee must not be appointed for a term of more than 12 months but is eligible for reappointment.

## **Part 3                      Enrolment, attendance and participation**

### **11                      Register of enrolments and attendances**

For section 45(1) of the Act, the following is prescribed information about enrolment and attendance of a student required to be shown in a register:

- (a) the student's name;
- (b) the student's residential address;
- (c) the student's date of birth;
- (d) whether the student has siblings at the same Government school;
- (e) whether the student is an Australian citizen or a permanent resident of Australia;
- (f) whether the student is living independently;
- (g) the name and residential address of each of the student's parents (if known);
- (h) the name of any parent who has daily care and control of the student;
- (i) a record of the student's attendance at the Government school on each school day, or each part of a school day, on which instruction is provided for the student.

### **12                      Home education**

For section 46(1)(b) of the Act, the following are prescribed details of the proposed home education that are required to be given to the CEO:

- (a) the curriculum proposed to be used for the home education;
- (b) the proposed program of work in each subject covered by the curriculum, including the resources to be used in support;
- (c) the average period of time that the child will receive instruction on each school day;
- (d) the number of days on which instruction will be given to the child;
- (e) where the instruction will be given and what facilities are available at that place for that purpose;

- (f) how learning activities will be recorded and how the child's educational progress and achievement will be measured;
- (g) the name of the person who is to give the instruction and that person's relationship to the child.

### **13 Enrolment of international students**

For section 66(1) of the Act, the prescribed eligibility criteria for an applicant for enrolment as an international student are:

- (a) the applicant is under 18 years of age; and
- (b) the applicant has adequate arrangements in place for their accommodation, welfare and supervision for the duration of their proposed course of study.

### **14 Fees**

- (1) For section 67(1) of the Act, the Minister may, by *Gazette* notice, determine the fees payable by international students enrolled in Government schools.
- (2) For section 69(1) of the Act, the Minister may, by *Gazette* notice, determine the fees payable for the provision of education services by distance education centres to the classes of students mentioned in that section.

## **Part 4 Government schools**

### **15 Standard curriculum program**

For section 75(2)(a) of the Act, the prescribed standard curriculum program is the provision of teaching and learning activities, instructional support and instructional materials for delivery of the following:

- (a) the Early Years Learning Framework;
- (b) the Australian Curriculum;
- (c) the senior secondary Northern Territory Certificate of Education and Training;
- (d) Vocational Education and Training.



**16 Fees payable by non-Government schools**

For section 76(2) of the Act, the Minister may, by *Gazette* notice, determine the fees payable by non-Government schools for the participation of students enrolled in those schools in education programs offered at Government schools.

**17 School enrolment management plan**

For section 79(3) of the Act, the prescribed proportion of enrolment capacity of a Government school is 85%.

**18 Additional allocation of semesters of Government school education**

- (1) The matters to which the CEO must have regard in determining an application under section 83(1) of the Act are:
  - (a) the likely educational outcome of the student attending school for the additional semester or semesters; and
  - (b) the student's attendance, participation and educational progress during any period of schooling before the application; and
  - (c) the suitability of other education, training or employment options.
- (2) Before determining an application under section 83(1) of the Act, the CEO:
  - (a) may seek advice from any person involved in the education of the student; and
  - (b) must have regard to that advice.
- (3) For section 83(5)(b) of the Act, conditions that the CEO may impose on the grant of an application include ongoing monitoring and review of the student's educational progress and attendance.

**19 Review of exclusion by CEO**

For section 92(5) of the Act, an application by a student or parent for the CEO to review a decision to exclude the student must:

- (a) be in writing; and
- (b) state an address to which notices may be sent by the CEO; and

- (c) be made within 14 days after the student receives a notice under section 92(2) of the Act; and
- (d) state the reasons for the application.

## **20 Review of expulsion by Minister**

For section 93(3) of the Act, an application by a student or parent for the Minister to review a decision to expel the student must:

- (a) be in writing; and
- (b) state an address to which notices may be sent by the Minister; and
- (c) be made within 14 days after the student receives a notice under section 93(1) of the Act; and
- (d) state the reasons for the application.

## **Part 5 Parent and community involvement in Government schools**

### **21 Definitions**

In this Part:

**deductible gift recipient**, see section 30.227(2) of the *Income Tax Assessment Act 1997* (Cth).

**school body** means:

- (a) a school representative body; or
- (b) a school management council; or
- (c) a multi-school management council.

**school representative body** includes joint school representative body.

### **22 Composition of school representative bodies**

- (1) For section 103(5) of the Act, the composition of a school representative body must be in accordance with this regulation.
- (2) A school representative body must consist of not less than 5, but not more than 19, members.

- (3) The number of members of a school representative body must be specified in the constitution of the body.
- (4) A school representative body (other than a joint school representative body) must consist of members in the following classes:
  - (a) parents of students enrolled in the Government school for which the body is established, including parents of preschool students, elected to office by the parents of students enrolled in that school;
  - (b) at least one teacher (other than the principal) who teaches at the Government school for which the body is established, who may be a preschool teacher, elected to office by the teachers who teach at that school;
  - (c) the principal of the Government school for which the body is established.
- (5) A joint school representative body must consist of members in the following classes:
  - (a) at least one parent of a student enrolled in each of the Government schools for which the body is established, who may be a parent of a preschool student, elected to office by the parents of students enrolled in that school;
  - (b) at least one teacher (other than the principal) who teaches at any of the schools for which the body is established, who may be a preschool teacher, elected to office by the teachers who teach at those schools;
  - (c) the principal of each school for which the body is established.
- (6) A school representative body (including a joint school representative body) may also include as members:
  - (a) subject to subregulations (7) and (8), one or more persons invited to be a member; and
  - (b) if the Government school, or any of the Government schools, for which the body is established provides secondary education, up to 2 students.

- (7) A person invited to be a member of a school representative body may be:
- (a) a person whom the body considers to have special qualifications, knowledge or experience that will be able to assist it in the performance of its functions by the giving of information or advice; or
  - (b) the member of the Legislative Assembly for the electoral division in which the Government school, or any of the Government schools, for which the body is established is located; or
  - (c) a person nominated by the local government council for the area in which the Government school, or any of the Government schools, for which the body is established is located.
- (8) However, a teacher at a Government school, including the Government school, or any of the Government schools, for which a school representative body is established must not be invited to be a member of the body.
- (9) A person may only be:
- (a) a member of a school representative body in one capacity, that is, as a parent, teacher, principal or, where relevant, invited member or student; and
  - (b) a representative of only one of the Government schools for which a joint school representative body is established.
- (10) Subregulation (11) applies if:
- (a) a parent of a student enrolled in the Government school, or one of the Government schools, for which a school representative body is established is a member of that body; and
  - (b) the student ceases to be enrolled in that Government school.
- (11) The parent may continue as a member until the end of their term of office.

## **23 Term of office**

- (1) For section 103(6) of the Act, the prescribed term of office of a member of a school representative body is 2 years.

- (2) However, the term of office of a person who is invited to be a member under regulation 22(6)(a) may be a shorter period than 2 years.
- (3) A person may not hold office as a member of a school representative body in the same capacity for more than 3 consecutive terms other than as:
  - (a) a principal; or
  - (b) a member of the Legislative Assembly, or person nominated by a local government council, who is invited to be a member under regulation 22(6)(a).
- (4) Despite subregulation (1), on a school representative body being first established, one-half of its members (or the whole number nearest to, but not more than, one-half if the total number of members is an uneven number) must retire at the end of their first year of office.
- (5) The office of a member of a school representative body becomes vacant if:
  - (a) the member is removed from office by the CEO under section 103(7) of the Act; or
  - (b) the member is no longer eligible to hold office; or
  - (c) the member resigns by notice in writing given to the chairperson of the school representative body or, for the chairperson, to the CEO.

## **24 Chairperson of school representative body**

- (1) For section 103(8)(a) of the Act, a school representative body must appoint one of its members mentioned in regulation 22(4)(a) (other than a member who is a teacher or principal at any Government school) to be its chairperson.
- (2) Subject to this regulation, a member appointed under subregulation (1) holds office as chairperson for the remainder of the person's term of office as a member.
- (3) A member appointed under subregulation (1) may resign as chairperson by giving written notice to the CEO.
- (4) A member appointed under subregulation (1) who ceases to hold office as a member of the school representative body also ceases to hold office as chairperson.

- (5) A member is eligible to be reappointed as chairperson.

## **25 Casual vacancies**

- (1) For section 103(8)(b) of the Act, a casual vacancy in the membership of a school representative body, other than a member in the capacity of principal, is to be filled as determined by the body.
- (2) A person elected or appointed to fill a casual vacancy:
- (a) must be eligible to hold office; and
  - (b) holds office for the balance of the term of the member who created the vacancy by ceasing to be a member.
- (3) A person who ceases to be a member of a school representative body or to hold a particular office on a school representative body must, as soon as practicable, give to their successor any money, books, records or property of the body in their possession.

## **26 General meetings**

- (1) Subject to subregulation (2), in each year the principal as a member of a school representative body or each of the principals who is a member of a joint school representative body must:
- (a) give notice to parents of students enrolled in the Government school of which they are the principal of the vacancies, if any, in the membership of the body for the year; and
  - (b) ensure that, as soon as practicable after giving notice, one or more meetings is held at which members are elected to fill vacancies and such other business is conducted as is required by the Act, these Regulations or the Minister.
- (2) A meeting to be held as mentioned in subregulation (1)(b) must not be held later than 15 March.

## **27 Meetings**

- (1) The chairperson of a school representative body or, if for any reason the chairperson is not available, the principal of the Government school, or any of the Government schools, for which the body is established, may call a meeting of the body.
- (2) The Minister, the CEO or not less than 3 members of a school representative body may, by written notice given to the chairperson of the body, request that a meeting of the body be called for the purpose of considering any matter specified in the notice.

- (3) Without limiting the manner in which a notice may be given under subregulation (2), it may be given to the chairperson by delivering it, addressed to the chairperson, to the principal of the Government school, or any of the Government schools, for which the school representative body is established.
- (4) On being given a notice under subregulation (2), the chairperson must call a meeting of the school representative body by giving to each member of that body not less than 3 days' written notice of:
  - (a) the date, time and place of the meeting; and
  - (b) any matter specified in the notice under subregulation (2).
- (5) A meeting called under subregulation (2) must not deal with any business other than that specified in the notice under that subregulation.
- (6) The chairperson of a school representative body must preside at any meeting of the body at which the chairperson is present.
- (7) If the chairperson is not present at a meeting, the members present must elect one of their number to preside at the meeting.
- (8) A quorum at a meeting of a school representative body is one-half of the members for the time being in office.
- (9) Questions arising at a meeting of a school representative body must be determined by a majority of the votes of the members present and voting.
- (10) The person presiding at a meeting of a school representative body only has a deliberative vote and not a casting vote.
- (11) If there is a vacancy in the office of chairperson of a school representative body and, but for this subregulation, the body would not be able to meet to appoint a member to be chairperson of the body, the CEO may convene a meeting of the body for that purpose.

## **28 Independent public school boards**

- (1) An application under section 104(2) of the Act must:
  - (a) have had its making supported by a motion passed at a general meeting of the independent public school board before it is made; and
  - (b) be made in writing; and

- (c) state the reasons for the application; and
  - (d) show how the views and interests of parents will be adequately represented on the board.
- (2) In determining an application under section 104(2) of the Act, the Minister:
  - (a) must have regard to:
    - (i) whether the views and interests of parents will be adequately represented on the independent public school board; and
    - (ii) whether the community in which the school is located supports the application; and
  - (b) must be satisfied that the board can comply with the requirements of Part 6 of the Act relevant to the board.
- (3) The Minister must make a decision on an application under section 104(2) of the Act as soon as practicable after receiving it and, in any event, not later than 30 days after receiving it.
- (4) The Minister may, in respect of an application under section 104(2) of the Act, decide:
  - (a) to approve the application; or
  - (b) to refuse the application; or
  - (c) to vary the application and approve it as varied.
- (5) As soon as practicable after making a decision on an application under section 104(2) of the Act, the Minister must give written notice of the decision to the board.
- (6) If the Minister approves an application under section 104(2) of the Act (whether with or without variation), the independent public school board must, as soon as practicable after being notified under subregulation (5), publish on the school's website the information mentioned in subregulation (1)(d) as included in the application.
- (7) An approval of an application under section 104(2) of the Act has effect for the period (not exceeding 2 years) determined by the Minister and specified in the notice under subregulation (5).
- (8) On an approval ceasing to have effect, section 103(5) of the Act applies to the independent public school board without modification.



- (9) An independent public school board may make a fresh application under section 104(2) of the Act at any time, whether or not an approval of an earlier application under that section then has effect.
- (10) However, if an independent public school board decides not to make a fresh application as mentioned in subregulation (9), it must notify the Minister of that fact and of the date on which the current approval will expire.

## **29 Limit on power to enter into agreements**

- (1) This regulation applies to a school body (other than a joint school representative body) for section 106(1)(b) of the Act.
- (2) A school body must not:
  - (a) give an indemnity or guarantee; or
  - (b) enter into a derivative transaction; or
  - (c) subscribe for, or otherwise acquire, or dispose of, shares in, or debentures or other securities of, a corporation; or
  - (d) except with the approval of the CEO:
    - (i) borrow or lend money; or
    - (ii) acquire or dispose of real property; or
    - (iii) enter into a contract or other arrangement for the provision of a service under which the total annual cost, on a calendar year basis, is more than 10% of the money allocated to the school body by the Agency for that year; or
    - (iv) enter into a contract or other arrangement for the construction or improvement of a building or other structure on land under which the total cost is in excess of the threshold amount; or
    - (v) enter into a funding agreement with any person or body.

- (3) In subregulation (2)(d)(iv):

***threshold amount*** means the threshold amount for ***minor new works*** set out in the Treasurer's Directions issued under section 38 of the *Financial Management Act*.

**30 Prescribed services**

For sections 107(1)(h) and 119(1)(f) of the Act, the services of maintenance and general upkeep are prescribed.

**31 Optional extras**

- (1) This regulation applies to a school body other than a joint school representative body.
- (2) For sections 107(1)(m) and 119(1)(i) of the Act, the following are prescribed materials, services or facilities not covered by section 75(2) of the Act for which a fee may be charged:
  - (a) the provision of instructional support or instructional resources;
  - (b) extra-curricular programs or activities;
  - (c) entry costs associated with performances, productions or events;
  - (d) the provision of materials or services that are a higher cost alternative to those required for the standard curriculum program;
  - (e) the provision of equipment or of other materials, services or facilities.

*Examples for subregulation (2)(a)*

*Printing for personal use and internet access for recreational purposes.*

*Example for subregulation (2)(b)*

*Instrumental music tuition.*

*Example for subregulation (2)(d)*

*The use of mahogany in woodwork instead of standard pine.*

*Example for subregulation (2)(e)*

*Hire of a notebook computer or musical instrument.*

**32 Voluntary contributions**

- (1) This regulation applies to a school body other than a joint school representative body.

- (2) For sections 107(1)(n) and 119(1)(j) of the Act, the following are the prescribed purposes for which voluntary contributions may be sought from parents:
- (a) donations to a building or a library trust fund, if the school body is a deductible gift recipient;
  - (b) financial contributions for a specific purpose designated by the Government school, or any of the Government schools, for which the school body is established;
  - (c) financial contributions or donations of any kind to the Government school, or any of the Government schools, for which the school body is established.

### **33 Ownership of materials and property**

- (1) If a school body (other than a joint school representative body) purchases materials or other property wholly or partly from money mentioned in section 110(1)(a) of the Act, the materials or other property belong to the Minister.
- (2) If a school body (other than a joint school representative body) purchases materials or other property wholly from money mentioned in section 110(1)(b) or (c) of the Act, the materials or other property belong to the school body.
- (3) Subregulation (4) applies if a school management council purchases materials or other property on behalf of a joint school representative body wholly from money mentioned in section 110(1)(b) of the Act.
- (4) The materials or other property belong to whichever school management council (established for one of the Government schools for which the joint school representative body is established) is nominated by the joint school representative body.

### **34 Accounts**

- (1) A school body (other than a joint school representative body) must open an official bank account under the name of the school body with an ADI and may open other bank accounts with an ADI.
- (2) A school management council may, on behalf of a joint school representative body, open a bank account with an ADI.
- (3) A school body must obtain the approval of the CEO to the opening of a bank account, including an official bank account.

- (4) A school body must deposit in an official bank account opened under subregulation (1) all of its money mentioned in section 110(1)(a) or (c) of the Act.
- (5) Money in an official bank account opened under subregulation (1) is held on behalf of the Minister.
- (6) A school body may deposit in a bank account (other than an official bank account opened under subregulation (1)) money mentioned in section 110(1)(b) of the Act.
- (7) A joint school representative body may determine the use of money in a bank account opened under subregulation (2) for the purpose of joint projects for the benefit of the Government schools for which the body is established.
- (8) An account mentioned in subregulation (7) is to be managed by one of the Government schools for which the joint school representative body is established as nominated by that body for that purpose.
- (9) A school body must keep separate records of transactions for each account held by it.
- (10) A school body must ensure that money cannot be withdrawn from an account held by it without the signature of at least 2 persons nominated by the school body, with the approval of the CEO, as signatories for the account.

### **35 Expenditure of money**

- (1) A school representative body or school management council must not, except with the written approval of the CEO, use money in a bank account opened by it other than on, or in relation to, the Government school for which it is established.
- (2) A joint school representative body or multi-school management council must not, except with the written approval of the CEO, use money in a bank account opened by it other than on, or in relation to, any of the Government schools for which it is established.

### **36 General accounting requirements**

A school body must ensure that:

- (a) interest earned on money in an account is credited to the account; and

- (b) an instrument authorising the withdrawal of money from an account in favour of a person specified in the instrument is only capable of authorising a direct payment from the account to that person; and
- (c) there is a record made of all money received by the school body, except as otherwise determined by the CEO by instrument given to the body; and
- (d) each account of the school body is audited by a person who is:
  - (i) a member of the Institute of Chartered Accountants, Institute of Public Accountants ACN 004 130 643 or CPA Australia; and
  - (ii) appointed to audit the account by the school body or the CEO; and
- (e) an auditor or a firm of auditors is not appointed to audit the accounts of the school body for a term of more than 3 years; and
- (f) the person who audits an account of the school body prepares a written report that includes:
  - (i) a statement of receipts, payments and balance on hand with respect to the account; and
  - (ii) any other information that is directed in writing by the CEO to be included; and
- (g) the report mentioned in paragraph (f) is presented to the next annual general meeting held in accordance with regulation 25(1)(b); and
- (h) a copy of a report mentioned in paragraph (f) is sent to the CEO as soon as practicable after the annual general meeting to which it is presented; and
- (i) a person is appointed, whether or not a member of the school body, with the duty of:
  - (i) maintaining books of each account of the school body; and
  - (ii) banking all money received for an account of the school body; and

- (iii) subject to regulation 33(10), making payments out of the account as authorised by the school body.

### **37 Secretary and treasurer to school body**

- (1) For section 111(4) of the Act, a school body may request the principal of the Government school, or of any of the Government schools, for which it is established to direct the registrar of that Government school to act as either the secretary or treasurer, or as both secretary and treasurer, to the school body.
- (2) On receiving a request under subregulation (1), the principal may, subject to subregulation (3), give, or refuse to give, the direction sought by the request.
- (3) The principal must not give a direction that would require the registrar to work, or attend meetings of the school body, outside the registrar's normal working hours unless:
  - (a) the registrar agrees to comply with the direction; and
  - (b) the Agency has made arrangements under which the registrar will be paid for doing such work or attending such meetings.
- (4) The registrar must comply with a direction given by the principal.
- (5) In this regulation:

**registrar**, in relation to a Government school, means the person holding the position of registrar of the school.

### **38 Powers of CEO with respect to school representative body**

For section 113(6)(a) of the Act, the prescribed period is 12 months.

## **Part 6 Non-Government schools**

### **39 Registrar of non-Government schools**

For section 123(2) of the Act, to be appointed as the registrar a person is required to be employed under an Executive Contract of Employment as defined by section 3(1) of the *Public Sector Employment and Management Act*.

### **40 Application fee for registration**

For section 129(2) of the Act, the prescribed fee for an application for the registration of a non-Government school is 1 500 revenue units.

**41 Code of conduct**

For sections 134(3) and 152 of the Act, the code of conduct is set out in Schedule 2.

**42 Application fee for variation of registration**

For section 154(1) of the Act, the prescribed fee for an application for the variation of the registration of a non-Government school is 200 revenue units.

**Part 7 Infringements****43 Infringement notice offence and prescribed amount payable**

- (1) An ***infringement notice offence*** is an offence against a provision specified in Schedule 3.
- (2) The ***prescribed amount*** payable for an infringement notice offence is the amount specified opposite the offence in Schedule 3.

**44 When infringement notice may be given**

If an authorised person reasonably believes a person has committed an infringement notice offence, the authorised person may give a notice (an ***infringement notice***) to the person.

**45 Contents of infringement notice**

- (1) The infringement notice must specify the following:
  - (a) the name and address of the person, if known;
  - (b) the date the infringement notice is given to the person;
  - (c) the date, time and place of the infringement notice offence;
  - (d) a description of the offence;
  - (e) the prescribed amount payable for the offence;
  - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act*, to whom the prescribed amount is payable.

- (2) The infringement notice must include a statement to the effect of the following:
- (a) the person may expiate the infringement offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
  - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
  - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act*, including (but not limited to) action for the following:
    - (i) suspending the person's licence to drive;
    - (ii) seizing personal property of the person;
    - (iii) deducting an amount from the person's wages or salary;
    - (iv) registering a statutory charge on land owned by the person;
    - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

#### **46 Payment by cheque**

If the person tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

#### **47 Withdrawal of infringement notice**

- (1) The CEO may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
- (a) within 30 days after the infringement notice is given to the person; and



- (b) before payment of the prescribed amount.

**48 Application of Part**

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, this Part does not:
  - (a) require an infringement notice to be given; or
  - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
  - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

## Schedule 1 Disqualifying offences

regulation 4

### 1 Criminal Code

Provision of Act	Qualification
Sections 125B, 125E, 127 and 128	
Section 130	If the victim is a child
Sections 131, 131A and 132	
Sections 134, 156, 165, 192 and 192B	If the victim is a child
Section 194	If the person kidnapped is a child
Section 195	If the victim is a child
Sections 201 and 202	
Section 202C	If the business involves the sexual servitude of a child
Section 202D	If the victim is a child

### 2 Misuse of Drugs Act

Provision of Act	Qualification
Section 5(1)	<p>If:</p> <ul style="list-style-type: none"> <li>(a) the amount of the dangerous drug supplied was a commercial quantity; and</li> <li>(b) the dangerous drug was specified in Schedule 1 or 2 to the <i>Misuse of Drugs Act</i>; and</li> <li>(c) the person to whom the dangerous drug was supplied was a child.</li> </ul>

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**3 Criminal Code (Cth)**


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<b>Provision of Act</b>	<b>Qualification</b>
Sections 268.8 to 268.68 and 268.70 to 268.101	
Sections 270.3, 270.5(1) and (2) and 270.7	If the victim is a child
Sections 271.4, 271.7, 272.8 to 272.15, 272.19, 273.5, 273.6, 309.2 to 309.4, 309.7, 309.8, 309.10 to 309.15, 471.16, 471.17, 471.19, 471.20, 471.24, 471.25, 471.26, 474.19, 474.20, 474.22, 474.23, 474.25A, 474.25B, 474.26, 474.27 and 474.27A	

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**4 Customs Act 1901 (Cth)**


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<b>Provision of Act</b>	<b>Qualification</b>
Section 233BAB	If the tier 2 goods were items of child pornography or child abuse material

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## **Schedule 2 Code of conduct**

regulation 41

### **1 Application of code**

This code of conduct applies to:

- (a) members of the Registration Assessment Panel established by section 133 of the Act; and
- (b) an assessor appointed under section 146(1) of the Act.

### **2 Purpose of code**

The purpose of this code of conduct is, for the persons to whom it applies, to:

- (a) set out the high standards of honesty, integrity and ethical behaviour expected of them in performing functions under the Act; and
- (b) guide them as to the practices necessary for confidence to be maintained in their integrity and for them to comply with their legal obligations in performing functions under the Act.

### **3 Requirements**

Persons to whom this code of conduct applies must:

- (a) act with honesty and integrity, that is:
  - (i) be open and transparent in their dealings; and
  - (ii) use power responsibly; and
  - (iii) not place themselves in a position of conflict of interest; and
  - (iv) declare any conflict of interest that should arise; and
  - (v) strive to earn and retain public trust of a high level; and
- (b) act in good faith, that is:
  - (i) demonstrate accountability for their actions; and
  - (ii) accept responsibility for their decisions; and
  - (iii) make all decisions in the best interests of students; and

- (iv) not engage in activities that may bring them or the registrar into disrepute; and
- (c) act fairly and impartially, that is:
  - (i) avoid bias, discrimination, capriciousness or self-interest; and
  - (ii) demonstrate respect for others by always acting in a professional and courteous manner; and
- (d) use information appropriately, that is, ensure that information gained in the performance of functions is kept confidential and only used for proper purposes; and
- (e) use their position appropriately, that is:
  - (i) not use their position to seek an undue advantage for themselves, family members or associates; and
  - (ii) not cause detriment to the registrar; and
  - (iii) ensure that they refuse any offers of gifts or favours that may cast doubt on their ability to apply independent judgement in performing functions; and
- (f) act in a financially responsible manner, that is:
  - (i) be accountable for all public resources used in performing functions; and
  - (ii) be economical and avoid waste in using public resources; and
- (g) exercise due care, diligence and skill, that is:
  - (i) find out all relevant information and make all reasonable enquiries before making a recommendation or decision; and
  - (ii) understand the financial, strategic and other implications of their recommendations or decisions; and
- (h) comply with the Act, that is, act within the powers given to them by the Act and for the purposes for which they are given; and
- (i) demonstrate leadership and stewardship, that is:
  - (i) set a good example; and

- (ii) exercise care and responsibility to ensure the effective regulation of non-Government schools.

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**Schedule 3      Infringement notice offences and prescribed amounts**

regulation 44

<b>Provision of Act</b>	<b>Prescribed amount (penalty units)</b>
sections 39(1), 40(2), 42(2), 70(2), 71(4), 94(2), 151(1), 171(5), 172(7), 173(11), 175(2) and 176(2)	2
sections 39(2), 40(3), 42(3), 70(3), 71(8), 94(3), 171(6), 172(8), 173(12), 174(3), 175(3) and 176(3)	0.2

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## ENDNOTES

### 1 KEY

Key to abbreviations

amd = amended  
app = appendix  
bl = by-law  
ch = Chapter  
cl = clause  
div = Division  
exp = expires/expired  
f = forms  
*Gaz* = *Gazette*  
hdg = heading  
ins = inserted  
lt = long title  
nc = not commenced

od = order  
om = omitted  
pt = Part  
r = regulation/rule  
rem = remainder  
renum = renumbered  
rep = repealed  
s = section  
sch = Schedule  
sdiv = Subdivision  
SL = Subordinate Legislation  
sub = substituted

### 2 LIST OF LEGISLATION

#### ***Education Regulations* (SL No. 30, 2015)**

Notified	15 December 2015
Commenced	1 January 2016 (r 2 and s 2 <i>Education Act 2016</i> (Act No. 28, 2015))