NORTHERN TERRITORY OF AUSTRALIA

EDUCATION ACT 2015

As in force at 31 August 2026

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 31 August 2026

EDUCATION ACT 2015

An Act to provide for the availability of education in the Northern Territory and in particular to provide for the access of all children and young persons to education programs appropriate to their individual needs and abilities, and for related purposes

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Education Act 2015*.

2 Commencement

(1) The provisions of this Act (except Part 3, Part 6, Divisions 2 and 4 and Part 7) commence on 1 January 2016.

(2) Part 6, Divisions 2 and 4 and Part 7 commence on 1 April 2016.

(3) Part 3 commences on 1 July 2016.

3 Objects of Act

The objects of this Act are:

(a) to provide education programs that are appropriate for all children and young persons in the Territory; and

(b) to ensure that education programs are responsive to the individual needs of children and young persons; and

(c) to facilitate the effective transition of young persons to employment or further education through the flexible delivery to them of education programs; and

(d) to facilitate the operation of schools as safe and supportive learning environments; and

(e) to provide for the involvement of parents and communities in the governance of Government schools; and

(f) to provide for the registration and ongoing assessment of non-Government schools.

4 Guiding principles

(1) Everyone involved in the administration of this Act, or in the education of children or young persons in the Territory, must apply the following guiding principles in performing functions in that regard:

(a) all students are entitled to an education of a quality that is capable of enabling them to reach their potential and so maximise their achievements and contribution to the community;

(b) education provides the foundation for the social and economic advancement of the Territory;

(c) students and staff of schools are entitled to a safe environment;

(d) parents play a vital role in the education of their children;

(e) the best educational outcomes for students are achieved by parents, schools, communities and non-government organisations working together;

(f) learning environments should be culturally appropriate and reflect the diversity of the Territory;

(g) the social and family context and general wellbeing of students play an important role in their engagement with education and achievement of outcomes;

(h) the document issued by the Australian Human Rights Commission outlining national principles for the operation of child safe organisations.

(2) Subsection (1) does not give rise to, and cannot be taken into account in, any civil cause of action.

5 Definitions

In this Act:

advisory council means an advisory council established under section 19.

affected person, see section 178.

approved form means a form approved under section 183.

assessor means an assessor appointed under section 123B.

attend, in relation to a school, see section 9.

authorised officer means any of the following:

(a) the CEO;

(b) an authorised person;

(c) a departmental officer.

authorised person, see section 167.

basic principles, for Part 7, see section 122.

Board, for Part 3, see section 23.

CEO means the Chief Executive Officer.

chairperson, for Part 3, see section 23.

child means a person under the age of 18 years.

child with special learning needs means a child to whom Part 4, Division 4 applies.

completion of year 10 of secondary education, see section 38(4).

compliance notice:

(a) for Part 7 – see section 155A; or

(b) for Part 8 – see section 172(2).

compulsory school age, see section 38.

criminal record, of an applicant for enrolment as a mature age student, see section 3(1) of the *Criminal Records (Spent Convictions) Act 1992*.

criminal record report, see section 59(1).

daily care and control, of a child, see section 8.

decision notice, for a decision, means a written notice setting out:

(a) the decision and the reasons for it; and

(b) any right the person to whom the notice is to be given has, under this Act, to apply for a review of, or to appeal, the decision.

departmental officer means a public sector employee employed in the Agency.

director, of a governing body, for Part 7, see section 121.

disability, see section 4(1) of the *Disability Discrimination Act 1992* (Cth).

disqualifying offence, for an application for enrolment as a mature age student, means an offence prescribed by regulation to be a disqualifying offence.

distance education centre means a Government school that is established as a distance education centre under section 15(5)(a) and includes a school of the air and the Government school known as the Northern Territory Open Education Centre.

eligible option, see section 38(2)(a).

expert, for Part 3, see section 23.

facilities, of a non-Government school, for Part 7, see section 121.

governing body, of a non-Government school, for Part 7, see section 121A(1).

Government school means a school declared to be a Government school under section 73(1).

home education, for a child, means education of the child conducted by a parent of the child or a teacher, primarily at the child's usual place of residence, but does not include education through a distance education centre.

independent public school means a Government school designated as an independent public school by the CEO under section 74(1).

information notice, see section 171(2).

initial assessment, for Part 7, see section 121.

international student means a person who holds a visa issued under the *Migration Act 1958* (Cth) under which the person is permitted to apply for enrolment in a Government school.

living independently, in relation to a child, see section 10.

mature age student means a student who is of or above the age of 18 years.

member, of the Board, see section 23.

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

multi-school management council means a multi-school management council established under section 118(1)(b).

non-Government school means a school other than a Government school and, for Part 7, see section 121.

parent, see section 6.

parental responsibility, see section 7.

parent consultative group means a parent consultative group established under section 116(2).

principal, in relation to a school, means the person directly responsible for the administration and control of the school.

priority enrolment area, for Part 5, Division 3, see section 78(2).

registered means registered under this Act.

registrar, for Part 7, see section 121.

registration, for Part 7, see section 121.

registration requirements, for Part 7, see section 125.

repealed Act means the *Education Act 1979* as in force immediately before the commencement of Part 1 of this Act.

routine assessment, for Part 7, see section 121.

school means a Government school or a non-Government school.

school attendance officer means a person appointed to be a school attendance officer under section 166A.

school day, in relation to a school, means a day on which instruction is provided at the school for students enrolled in the school.

school enrolment management plan, see section 79(2).

school management council means a school management council established under section 118(1)(a).

school representative body means a school representative body established under section 103(2).

school week, in relation to a school, means a week during all or part of which instruction is provided at the school for students enrolled in the school.

second compliance notice, for Part 7, see section 155B(2)(a).

second or subsequent offence, see section 11.

semester, in relation to a year, means 2 consecutive terms in the same half of the year.

special investigation, for Part 7, see section 121.

standard allocation, see section 82.

standard curriculum program, see section 75(2)(a).

student means a person enrolled at a school and, where the context requires, includes a person whose enrolment has been cancelled under Part 5, Division 8.

term, see section 15(5)(d).

training means training in the knowledge and skills required for a vocation, whether by way of course, instruction or practical training.

transition year means the year of full-time schooling for a child immediately before their first year of compulsory school age.

Tribunal means the Northern Territory Civil and Administrative Tribunal.

Tribunal reviewable decision, see section 177.

unregistered non-Government school, for Part 7, see section 121.

variation, of the registration of a non-Government school, for Part 7, see section 121.

vetting entity, for Part 4, Division 5, see section 57(1).

young person means a student of or above the age of 12 years.

Note for section 5

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

6 Parent of child

(1) A ***parent*** of a child is the child's father, mother or any other person who has parental responsibility for the child.

(2) However, a person standing in the place of a parent of a child on a temporary basis is not a parent of the child.

(3) A parent of an Aboriginal child includes a person who is regarded as a parent of the child under Aboriginal customary law or Aboriginal tradition.

(4) In this section:

Aboriginal child means a child who is:

(a) a descendant of the Aboriginal people of Australia; or

(b) a descendant of the indigenous inhabitants of the Torres Strait Islands.

Aboriginal customary law means:

(a) customary law of the Aboriginal people of Australia; or

(b) customary law of the indigenous inhabitants of the Torres Strait Islands.

Aboriginal tradition means:

(a) tradition of the Aboriginal people of Australia; or

(b) tradition of the indigenous inhabitants of the Torres Strait Islands.

7 Parental responsibility

(1) A person has ***parental responsibility*** for a child if the person:

(a) has daily care and control of the child; or

(b) is entitled to exercise all the powers and rights, and has all the responsibilities, in relation to the long-term care and development of the child; or

(c) has daily care and control of the child and the entitlement and responsibilities in relation to the child mentioned in paragraph (b).

(2) To avoid doubt, a reference in this Act to a person who has parental responsibility for a child includes a person who has been given that responsibility under a law of another jurisdiction.

8 Daily care and control

A person has ***daily care and control*** of a child if the person is entitled to exercise all the powers and rights, and has all the responsibilities, in relation to the day-to-day care and control of the child.

Examples for section 8

The person has the right to make decisions about the personal appearance of the child.

The person has the right to make decisions about the people with whom the child may, or must not, have contact.

9 Attending school

(1) A child ***attends*** a school if the child is present at the school in which the child is enrolled at the times during a school day when instruction is provided at the school for the child.

(2) A child is also taken to attend school if the child is participating in an education program prescribed by regulation.

10 Child living independently

(1) A child is ***living independently*** if the child is of or above the age of 14 years and not living with a parent.

(2) A child is also taken to be living independently, although living with a parent, if the parent is unable to control the child's behaviour to the extent necessary to ensure compliance with Part 4.

11 Second or subsequent offence

An offence is a ***second or subsequent offence*** for a person if:

(a) the person is found guilty of an offence against a provision for which a specific penalty is specified for a second or subsequent offence; and

(b) the person has previously been found guilty of:

(i) an offence against that provision; or

(ii) an offence against another provision for which a specific penalty is specified for a second or subsequent offence; or

(iii) an offence against Part 4 of the repealed Act; or

(iv) an offence of the same nature as an offence mentioned in subparagraph (i), (ii) or (iii).

12 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

13 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 13

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 Administration

Division 1 Role of Minister

14 Administration of Act

Subject to this Act, the Minister has:

(a) the general administration of this Act; and

(b) the administration and control of education or training services wholly provided and wholly maintained by the Minister.

15 Minister to provide services

(1) The Minister may take all measures that, in the Minister's opinion, are necessary or desirable:

(a) to assist parents of children and young persons whose usual place of residence is in the Territory in meeting their responsibility to educate them according to their individual needs and abilities; and

(b) to make available, to all children and young persons whose usual place of residence is in the Territory, education or training services provided by the Minister; and

(c) to assist all children and young persons whose usual place of residence is in the Territory with their own education.

(2) The Minister must establish and maintain education services in the Territory.

(3) The Minister may establish and maintain, or make available, training services in the Territory.

(4) The Minister has the powers necessary to perform the Minister's functions under this Act.

(5) Without limiting subsection (4), the Minister may:

(a) establish and maintain Government schools, including distance education centres, for the provision of education services from transition year to year 12; and

(b) establish and maintain preschools for the provision of education services to children in the year before transition year; and

(c) name, and change the name of, any Government school; and

(d) determine, in relation to any year, the periods (***terms***) during which Government schools are to be open for the provision of instruction to students enrolled in them; and

(e) in the manner and to the extent that the Minister considers appropriate:

(i) provide or arrange for the transport of students to and from any school; and

(ii) pay the whole or any portion of the cost of that transport; and

(f) establish and maintain, as the Minister considers necessary or desirable, facilities or arrangements for:

(i) the accommodation of students enrolled in Government schools; and

(ii) the accommodation of teachers; and

(g) undertake research and investigation with respect to:

(i) education generally; or

(ii) a specified field of education; or

(iii) the provision of education services in the Territory; and

(h) provide to persons or bodies, on any conditions specified by the Minister, any financial assistance that the Minister considers necessary or desirable for, or in connection with, education services; and

(i) determine, or arrange for the accreditation of, courses of education to be provided in the Territory; and

(j) having sought the advice of any relevant advisory council – provide for awards in relation to the passing of examinations or otherwise in relation to education services; and

(k) provide for the granting of scholarships, bursaries and prizes in relation to education services.

(6) Subsection (5)(c) has effect even if the name of the Government school was approved under section 11 of the *Place Names Act 1967* before the commencement of this section.

(7) Subsection (8) applies if a person or body fails to comply with any condition subject to which financial assistance was provided to the person or body under subsection (5)(h).

(8) The Minister may determine, in writing, that:

(a) the person or body pay to the Territory a specified amount that does not exceed the amount of financial assistance provided (the ***recoverable amount***); or

(b) in determining the amount of financial assistance to be provided to the person or body on a future occasion, the amount that otherwise would be payable is to be reduced by a specified amount (not exceeding the recoverable amount).

(9) An amount determined under subsection (8)(a) is a debt due by the person or body to the Territory and may be recovered by the Minister, on behalf of the Territory, in a court of competent jurisdiction.

16 Provision of offshore education, training or related services

The Minister may enter into an arrangement, or a joint venture, with another person or body for the provision of education, training or related services outside Australia.

17 CEO subject to Ministerial direction and control

(1) The CEO is subject to the direction and control of the Minister in the exercise of powers, or the performance of functions, under this Act.

(2) The CEO may, if authorised to do so by the Minister in writing, exercise any power or perform any function that the Minister is authorised or required to exercise or perform by this Act.

18 Delegation

(1) The Minister may delegate any of the Minister's powers and functions under this Act to a person.

(2) The CEO may delegate any of the CEO's powers and functions under this Act to a public sector employee.

Division 2 Advisory councils

19 General power to establish advisory councils

(1) The Minister may establish advisory councils to give advice or make recommendations to the Minister on matters related to the provision of education or training services in the Territory.

Example for subsection (1)

The provision of education to children with special learning needs.

(2) An advisory council may be established:

(a) to give advice or make recommendations generally on questions affecting education or training in the Territory, or on a particular aspect of education or training in the Territory, as questions arise; or

(b) to investigate and give advice or make recommendations on a particular question relating to education or training in the Territory.

(3) An advisory council consists of the members that the Minister considers appropriate and appoints to the council.

20 Procedures of advisory council

Subject to the Minister's directions, an advisory council may determine its own procedures.

21 Provision of support to advisory council

The Minister may do either or both of the following:

(a) provide secretarial, administrative or other assistance to an advisory council;

(b) approve the payment of costs and expenses reasonably incurred by an advisory council in performing its functions.

Division 3 CEO's report

22 Report by CEO

(1) The CEO must, as soon as practicable after 30 June in each year, prepare and give to the Minister a report on the administration of this Act, and on the operation of education and training services in the Territory, during the year ending on that date.

(2) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after the Minister receives the report.

Part 3 Northern Territory Board of Studies

23 Definitions

In this Part:

Board means the Northern Territory Board of Studies established by section 24(1).

chairperson means the chairperson of the Board appointed under section 28(4).

expert means a person who is recognised nationally as having expertise in one or more of the fields prescribed by regulation.

member means a member of the Board appointed under section 28(1) and includes the chairperson.

24 Establishment of Board

(1) The Northern Territory Board of Studies is established.

(2) The Board:

(a) represents the Territory; and

(b) enjoys the privileges, rights or immunities of the Crown in right of the Territory; and

(c) is within the shield of the Crown in right of the Territory.

25 Functions of Board

The Board has the following functions:

(a) to provide advice to the Minister and the CEO on curriculum policy in relation to:

(i) establishing and maintaining curriculum frameworks that address the needs of all students in the Territory school education system; and

(ii) establishing and maintaining procedures for student assessment, reporting and certification; and

(iii) monitoring, evaluating and reporting on student performance; and

(iv) improving student outcomes;

(b) to provide advice to the Minister and the CEO on government policy affecting the Board's functions;

(c) to cooperate and consult with bodies prescribed by regulation that are engaged in education or related matters.

26 Powers of Board

The Board has the powers necessary to perform its functions.

27 Staff and costs etc. of Board

(1) The CEO may provide the Board with public sector employees to enable it to properly perform its functions.

(2) The Minister may approve the payment of costs and expenses reasonably incurred by the Board in performing its functions.

28 Composition of Board and appointment of members

(1) The Board consists of the following members appointed by the Administrator:

(a) a departmental officer nominated by the CEO;

(b) a person nominated by the Association of Independent Schools of the Northern Territory who, in the opinion of the Association, is an expert;

(c) a person nominated by the Northern Territory Catholic Education Office who, in the opinion of the Office, is an expert;

(d) a person who is a parent of a student enrolled in a school in the Territory who has demonstrated, to the satisfaction of the Administrator, that the person has been nominated or endorsed by a body that represents the interests of such parents;

(e) a person who is working as a teacher in the Territory who has demonstrated, to the satisfaction of the Administrator, that the person has been nominated or endorsed by a body that represents the interests of such teachers;

(f) a person who represents the interests of employers;

(g) a person who represents the interests of:

(i) the Aboriginal people of Australia; and

(ii) the indigenous inhabitants of the Torres Strait Islands;

(h) 4 other persons nominated by the Minister who, in the opinion of the Minister, are experts.

(2) The Regulations may set out the process by which nominations for, or expressions of interest in, membership of the Board may be sought.

(3) Nominators under subsection (1)(b), (c) or (h) must, through consultation with each other or by any other means, seek to ensure, as far as practicable, that members appointed as experts:

(a) are, or at the time of nomination recently were, resident in the Territory or have knowledge of, or experience in, education in the Territory; and

(b) have between them knowledge of, or experience in, all the fields prescribed by regulation for the definition ***expert*** in section 23.

(4) On the recommendation of the Minister, the Administrator must appoint one of the members nominated under subsection (1)(b), (c) or (h) as the chairperson of the Board.

(5) For subsection (4), the Minister may recommend only a person whom the Minister is satisfied meets any eligibility criteria prescribed by regulation for appointment as chairperson.

(6) The performance of a function by the Board is not affected by a vacancy in its membership.

(7) The function of a body mentioned in subsection (1)(b) or (c) is not affected by the body changing its name.

29 Term of appointment

(1) A member holds office for the period, not exceeding 3 years, specified in the instrument of appointment and is eligible for reappointment.

(2) If a period of appointment is not specified, the member holds office for 3 years.

(3) The appointments of members are to be arranged so that, as far as practicable, the terms of office of 6 members appointed under section 28(1) expire together, with the terms of office of the other 5 members expiring 18 months later.

30 Acting chairperson

(1) If the chairperson is absent from a meeting, the members present must elect one of their number to be acting chairperson.

(2) The acting chairperson may perform the functions of the chairperson for that meeting.

31 Vacation of office

A person ceases to be a member of the Board if:

(a) the person resigns by giving written notice to the Administrator; or

(b) the person's term of office expires and the person is not reappointed; or

(c) the person's appointment is terminated under section 32.

32 Termination of appointment

(1) The Administrator may terminate the appointment of a member of the Board for the following reasons:

(a) inability, inefficiency, misbehaviour or physical or mental incapacity;

(b) the body that nominated the member of the Board under section 28(1)(b) or (c) so requests.

(2) The Administrator must terminate the appointment of a member who:

(a) is absent from 2 consecutive meetings of the Board, except on leave granted by the Board; or

(b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of remuneration for their benefit.

33 Meetings of Board

(1) The chairperson must call meetings of the Board as specified in the Regulations.

(2) The Minister may at any time direct the chairperson to call a meeting of the Board and the chairperson must do so accordingly.

(3) The Regulations may provide for:

(a) how often the Board must meet in each term; and

(b) how many members constitute a quorum at a meeting of the Board; and

(c) how meetings of the Board may be held; and

(d) how questions arising at a meeting of the Board are to be determined; and

(e) the procedure to be followed at a meeting of the Board; and

(f) the records to be kept of meetings of the Board.

34 Committees of Board

(1) The Board may establish committees to assist it in performing its functions and may appoint any person as a committee member, whether or not the person is a member of the Board.

(2) At least one member of each committee must be a member of the Board.

(3) Subject to the Regulations, the Board may determine the functions and procedures of a committee and the period of appointment of its members.

(4) A member of a committee is not entitled to be paid any fees or allowances on account of being a member.

(5) The Board may at any time abolish a committee.

35 Issue of certificates by Board

(1) The Board may determine the certificates to be issued to a person in respect of the person's educational achievements.

(2) The Board must issue a certificate to a person whose educational achievements, as assessed or recognised under this section, qualify the person for the certificate.

(3) The Board must prepare and maintain records of assessments made under this section, or recognised by the Board, relating to a student or former student.

(4) The Board must provide, on request by a student or former student, a copy of a record mentioned in subsection (3) relating to the student or former student to:

(a) the student or former student; or

(b) any other person that the student or former student specifies in that request.

36 Board subject to Ministerial direction

The Board is subject to the directions of the Minister in performing its functions.

37 Reports

The Board must, as soon as practicable after 31 December in each year, prepare and give to the Minister a report on its activities during the year ending on that date.

Part 4 Enrolment, attendance and participation

Division 1 Compulsory education

38 Compulsory school age

(1) A child becomes of ***compulsory school age*** on 1 January of the year in which, as at 30 June, the child is 6 years of age.

Examples for subsection (1)

A child born on 29 June 2012 becomes of compulsory school age on 1 January 2018.

A child born on 1 July 2012 becomes of compulsory school age on 1 January 2019.

(2) A child ceases to be of compulsory school age when the first of the following occurs:

(a) the child completes year 10 of secondary education and participates on a full-time basis in one of the following options (an ***eligible option***):

(i) approved education or training;

(ii) if the child is of or above the age of 15 years – paid employment or a combination of approved education or training and paid employment;

(b) the child completes year 10 of secondary education and is exempt from participating in an eligible option;

(c) the child reaches the age of 17 years.

(3) For subsection (2)(a), a child does not cease to participate in an eligible option merely because, over a 12 month period, the child ceases to participate in the option:

(a) for a period that does not exceed 3 months; or

(b) for periods that, in the aggregate, do not exceed 3 months.

(4) For subsection (2)(a) or (b), a child ***completes year 10 of secondary education*** if the child:

(a) completes year 10 of secondary education in the Territory or the equivalent in a State or another Territory; or

(b) completes education approved by the CEO for the child in circumstances that the CEO considers to be special circumstances; or

(c) satisfies the requirements of any regulations made under subsection (9)(a).

(5) For subsection (2)(a), ***approved education or training*** is one of the following:

(a) year 11 or 12 of secondary education in the Territory or the equivalent in a State or another Territory;

(b) an education program or course of study or instruction provided by Charles Darwin University or the Batchelor Institute of Indigenous Tertiary Education;

(c) a higher education course accredited under the *Higher Education Act 2004*;

(d) a VET accredited course, training package qualification, approved apprenticeship or approved traineeship under the *Training and Skills Development Act 2016*;

(e) other education or training approved by the CEO under subsection (6);

(f) other education or training at an institution in a State or another Territory that, if provided in the Territory, would comply with the requirements of this Part.

(6) For subsection (5)(e), the CEO may, by *Gazette* notice, approve a form of education or training.

(7) The CEO may exempt a child from participating in an eligible option for a specified period if satisfied it is appropriate to do so because of special circumstances.

Example for subsection (7)

The child is seriously ill.

(8) The exemption must be by written notice given to a parent of the child or, if the child is living independently, the child.

(9) Regulations may provide for the following:

(a) when a child completes year 10 of secondary education;

(b) when a child is participating in an eligible option.

(10) Subject to the Regulations, for subsection (2)(a)(ii), participation on a full-time basis in paid employment is participation for an average of not less than 25 hours a week.

39 Compulsory enrolment

(1) A parent who has daily care and control of a child of compulsory school age whose usual place of residence is in the Territory commits an offence if the child is not enrolled in a Government school or a non-Government school registered under Part 7.

Maximum penalty: For a first offence – 15 penalty units.

For a second or subsequent offence – 20 penalty units.

(2) A child of compulsory school age who is living independently and whose usual place of residence is in the Territory commits an offence if the child is not enrolled in a Government school or a non-Government school registered under Part 7.

Maximum penalty: For a first offence – 1.5 penalty units.

For a second or subsequent offence – 2 penalty units.

(3) An offence against subsection (1) or (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant has a reasonable excuse.

(5) Subsections (1) and (2) do not apply in relation to a child who is:

(a) complying with special arrangements made under Division 4 for the child; or

(b) being provided with home education in accordance with an approval under section 46; or

(c) enrolled in a school in a State or another Territory and receiving education or training that, if provided in the Territory, would comply with the requirements of this Part.

(6) The principal of a school must notify the CEO, in writing, as soon as practicable after a student who has completed year 10 of secondary education and is under the age of 17 years ceases to be enrolled in the school.

40 Compulsory attendance at school

(1) This section applies to a student of compulsory school age whose usual place of residence is in the Territory and who is enrolled in a school that is not a distance education centre.

(2) If the student is a child not living independently, a parent who has daily care and control of the student must ensure that the student attends the school each school day, or each part of a school day, on which instruction is provided for the student.

Maximum penalty: For a first offence – 15 penalty units.

For a second or subsequent offence – 20 penalty units.

(3) If the student is a child living independently, the student must attend the school each school day, or each part of a school day, on which instruction is provided for the student.

Maximum penalty: For a first offence – 1.5 penalty units.

For a second or subsequent offence – 2 penalty units.

(4) An offence against subsection (2) or (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (2) or (3) if the defendant has a reasonable excuse.

(6) Subsections (2) and (3) do not apply if:

(a) the student is exempted from attending school under this Part; or

(b) the student is directed not to attend school under section 41; or

(c) the student is, under Part 5, Division 8:

(i) suspended or expelled from school; or

(ii) excluded from any land, premises or facility occupied or used by the school; or

(iii) excluded from participation in any program or activity conducted by or on behalf of the school; or

(d) a parent of the student or, if the student is a child living independently, the student, gives a reason acceptable to the principal of the school for the student's absence; or

(e) the student's absence is on a day, or part of a day, of significance to the student's cultural background and a parent of the student or, if the student is a child living independently, the student, gives that as the reason for the absence to the principal of the school.

41 Student not to attend school in certain circumstances

(1) This section applies if the principal of a Government school believes on reasonable grounds that a student is suffering from an infectious disease.

(2) The principal may give written notice directing that the student is not to attend school for a specified period:

(a) for a student who is a child:

(i) to a parent having daily care and control of the child; or

(ii) if the student is a child living independently – to the student; or

(b) for a student who is not a child – to the student.

(3) If the principal is given a certificate signed by a medical practitioner certifying the student is fit to attend school, the principal must permit the student to attend the school even if the specified period has not ended.

42 Compulsory participation at distance education centre

(1) This section applies in relation to a student of compulsory school age whose usual place of residence is in the Territory and who is enrolled in a distance education centre.

(2) A parent who has daily care and control of the student must ensure that the student reasonably carries out all course requirements of the educational instruction provided by the distance education centre, including any requirement to attend the centre or another place.

Maximum penalty: For a first offence – 15 penalty units.

For a second or subsequent offence – 20 penalty units.

(3) If the student is a child living independently, the student must reasonably carry out all course requirements of the educational instruction provided by the distance education centre, including any requirement to attend the centre or another place.

Maximum penalty: For a first offence – 1.5 penalty units.

For a second or subsequent offence – 2 penalty units.

(4) An offence against subsection (2) or (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (2) or (3) if the defendant has a reasonable excuse.

(6) Subsections (2) and (3) do not apply if:

(a) the student is exempted by the CEO under section 44 from all course requirements of the educational instruction provided by the distance education centre; or

(b) a parent of the student or, if the student is a child living independently, the student, gives a reason acceptable to the principal of the distance education centre for the student not carrying out all those course requirements.

43 Enrolment in distance education centre by Australian resident

(1) A person who is resident in Australia but whose usual place of residence is not in the Territory may apply to the CEO for enrolment in a distance education centre.

(2) To avoid doubt, if the person is of or above the age of 18 years and has not been enrolled in a school in the 12 months immediately before making the application, the person must comply with the requirements of Division 5.

44 Exemption by CEO

The CEO may, if satisfied that it is appropriate to do so because of special circumstances, exempt a student of compulsory school age for a specified period from:

(a) attendance at school; or

(b) all course requirements of the educational instruction provided by a distance education centre.

Example for section 44

The student is seriously ill.

Division 2 School register

45 Register of enrolments and attendances

(1) The principal of a Government school must ensure that a register is kept that shows, in respect of all students enrolled in the school, the information about their enrolment and attendance prescribed by regulation.

(2) The principal of a Government school must ensure that the register is available for inspection by the CEO at any time during a school day.

(3) The principal of a Government school commits an offence if the principal fails to comply with subsection (1) or (2).

Maximum penalty: 5 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (3) if the defendant has a reasonable excuse.

Division 3 Home education

46 Home education

(1) A parent of a child of compulsory school age whose usual place of residence is in the Territory, who proposes to provide home education for the child must, before providing home education:

(a) apply to the CEO for approval to provide it; and

(b) give the CEO details of the proposed home education, including any documentary evidence or other information that is prescribed by regulation.

(2) To determine whether the proposed home education is suitable, the CEO may direct a departmental officer to:

(a) inquire into the proposal; and

(b) give a report to the CEO about the proposed home education.

(3) As soon as practicable after receiving an application, the CEO must:

(a) if of the opinion that the proposed home education is suitable – approve the application subject to the conditions mentioned in subsection (6); or

(b) if not of that opinion – refuse the application.

(4) In deciding an application under subsection (3), the CEO must have regard to:

(a) any report received under subsection (2); and

(b) any other matters that the CEO considers relevant.

(5) As soon as practicable after making a decision under subsection (3), the CEO must give a decision notice to the applicant.

(6) The approval of an application is subject to the following conditions:

(a) subject to subsection (7), the curriculum to be used must be one that is approved by the Australian Curriculum Assessment and Reporting Authority or any successor of that body;

(b) the approval is for 1 school year only;

(c) any teacher conducting the home education must be registered under the *Teacher Registration (Northern Territory) Act 2004*;

(d) the parent must allow inspections to be carried out from time to time by departmental officers in accordance with section 47;

(e) any other conditions that the CEO considers appropriate and specifies in the notice under subsection (5).

(7) Subsection (6)(a) does not apply if:

(a) an exemption under subsection (8) applies in relation to the parent; or

(b) the parent had, before the commencement of this section, approval to provide home education to the child for the immediately preceding school year.

(8) The CEO may grant an exemption for a parent from the condition mentioned in subsection (6)(a) if satisfied that it is appropriate to do so because of special circumstances.

47 Inspection program for home education

(1) The CEO must, in relation to home education approved under section 46, establish an inspection program to ensure that:

(a) suitable home education is being provided; and

(b) parents are complying with the conditions of their approval to provide home education.

(2) An inspection must be carried out by a departmental officer in accordance with the program in relation to each approval at least once during the period of that approval.

(3) An inspection may be carried out in the course of an inquiry under section 49(2).

(4) An inspection covers the curriculum and resources used in providing the home education as well as the place where the home education is usually provided and the facilities available at that place for use in providing it.

(5) An inspection may only be carried out at a time agreed between the parent and the departmental officer who is to carry out the inspection.

(6) Following completion of an inspection, the departmental officer must prepare a report on the suitability of the home education and give a copy of the report to the parent and the CEO.

48 Cessation of home education

A parent who has approval under section 46 to provide home education for a child must notify the CEO, in writing, within 14 days after any of the following occurs:

(a) the parent ceases to provide home education;

(b) the child is enrolled in a school;

(c) there is a change in any details provided in the application for approval to provide home education.

Note for section 48(a)

A parent having daily care and control of a child of compulsory school age who ceases to provide home education to the child must comply with section 39(1).

49 Power to cancel approval of home education

(1) This section applies if the CEO has reason to believe that:

(a) a parent may not be complying with the conditions of an approval to provide home education; or

(b) the child is not making satisfactory progress.

(2) The CEO may direct a departmental officer to inquire into the matter and give a report about the situation.

(3) Whether or not the CEO has given a direction under subsection (2), the CEO may, by written notice given to a parent, cancel an approval to provide home education if of the opinion that:

(a) the parent has failed to comply with the conditions of the approval; or

(b) the child is not making satisfactory progress.

(4) The CEO must, in a notice under subsection (3):

(a) give reasons for the decision to cancel the approval; and

(b) invite the parent to give reasons, within 30 days after receiving the notice, why home education should continue.

(5) The CEO may, having regard to any reasons given by a parent in response to a notice under subsection (3), by written notice given to the parent, cancel the notice under subsection (3) and reinstate the approval to provide home education.

(6) If the CEO decides not to cancel the notice, the CEO must give a decision notice to the parent.

Division 4 Children with special learning needs

50 Application of Division

This Division applies in relation to a child whose usual place of residence is in the Territory and:

(a) who has a disability; or

(b) whose educational progress, because of a special factor other than a disability, is likely to suffer unless they have access to special educational arrangements.

51 Minister may provide for education of children with special learning needs

(1) The Minister may make any provision about the education of children with special learning needs that the Minister considers necessary or desirable.

(2) Without limiting subsection (1), the Minister may make arrangements for the following with the Government of a State or another Territory or with a body in a State or another Territory:

(a) the education in that State or Territory of children whose usual place of residence is in the Territory;

(b) the payment of expenses for that education.

52 Parent or principal may request special arrangements

(1) Any of the following may request the CEO to make special arrangements for a child's education:

(a) a parent of a child with special learning needs – where the child is of compulsory school age;

(b) the principal of a Government school at which a child with special learning needs is enrolled – where the child is of compulsory school age;

(c) a parent of a child or student who has a disability – where the child or student is not of compulsory school age.

(2) The parent or principal must, in a request under subsection (1), indicate how the proposed special arrangements would be of educational benefit to the child or student.

(3) Special arrangements under this Division do not include an additional allocation of semesters of Government school education under section 83.

53 CEO's power to make special arrangements

(1) The CEO must make a decision on a request under section 52(1) as soon as practicable after receiving it and, in any event, not later than 30 days after receiving it.

(2) The CEO may, in respect of a request, decide:

(a) to approve the special arrangements as requested; or

(b) to refuse the request for special arrangements; or

(c) to vary the requested special arrangements and approve them as varied; or

(d) to order alternative special arrangements.

(3) Before determining a request, the CEO may seek advice from:

(a) any departmental officer who has specialist knowledge of children with special learning needs; or

(b) any person involved in the education of the child.

(4) In determining a request the CEO must:

(a) consult with the child and the child's parents and have regard to any expressed wishes of the child or parents; and

(b) have regard to the following matters:

(i) any advice received under subsection (3);

(ii) the educational benefit of the special arrangements;

(iii) the child's learning capability;

(iv) the child's attendance, participation and educational progress during any period of schooling before the request.

(5) As soon as practicable after making a decision under this section, the CEO must give a decision notice to the person who made the request.

54 Special arrangements to include provision for visits

(1) This section applies if special arrangements for a child would require the child to reside at a place other than the usual place of residence of the parent who has daily care and control of the child.

(2) The arrangements must include provision for visits of reasonable frequency and duration by that parent to the child or by the child to that parent.

55 Disability standards

(1) This Division does not affect the duty of an education body, under Part 2, Division 2A of the *Disability Discrimination Act 1992* (Cth), to act in accordance with a disability standard made under section 31 of that Act.

(2) In subsection (1):

education body means an educational authority, or education provider, as defined by section 4(1) of the *Disability Discrimination Act 1992* (Cth).

56 *Anti-Discrimination Act 1992* not affected

This Division does not affect any right that a person has to make a complaint under Part 6 of the *Anti-Discrimination Act 1992* or exercise any other right under that Act.

Division 5 Mature age students

57 Interpretation

(1) In this Division:

criminal record report, see section 59(1).

vetting entity means:

(a) for an application for enrolment in a Government school – the CEO; or

(b) for an application for enrolment in a non-Government school that is a Catholic school – the Northern Territory Catholic Education Office; or

(c) for an application for enrolment in a non-Government school that is not a Catholic school – the Association of Independent Schools of the Northern Territory.

(2) The function of a body mentioned in subsection (1), definition ***vetting entity***, paragraph (b) or (c), is not affected by the body changing its name.

58 Application of Division

This Division applies to a person of or above the age of 18 years who:

(a) applies for enrolment as a mature age student in a Government school or a non-Government school registered under Part 7; and

(b) at the time of the application, is not enrolled in a school and has not been enrolled in a school in the preceding 12 months.

59 Applicant must submit application to vetting entity

(1) An applicant must submit the application for enrolment as a mature age student to the vetting entity accompanied by a report (a ***criminal record report***) containing details of the applicant's criminal record obtained by the applicant from the Commissioner of Police.

(2) If there is a charge for an offence of any kind pending in relation to the applicant, the applicant must describe in the application the nature of the offence to which the charge relates.

Maximum penalty: 20 penalty units.

(3) The applicant must meet any cost incurred in obtaining the criminal record report.

(4) The vetting entity must ensure that information obtained by it under this section is destroyed as soon as practicable after the information is no longer needed for the purpose for which the information was obtained.

60 Review of criminal record report for disqualifying offence

(1) The vetting entity must review the applicant's criminal record report to determine if it shows a conviction for a disqualifying offence.

(2) If the criminal record report shows a conviction for a disqualifying offence, the vetting entity must refuse the application for enrolment.

(3) If the criminal record report does not show a conviction for a disqualifying offence, the vetting entity must, within 14 days after receiving the application for enrolment, forward the application to the principal of the school in which the applicant is seeking to be enrolled.

61 Discretion of CEO if report shows offence other than disqualifying offence

(1) This section applies if the criminal record report shows a criminal history of any kind (other than a conviction for a disqualifying offence) and the application is for enrolment in a Government school.

(2) The CEO must decide whether to forward the report, in whole or in part, to the principal of the Government school together with the application for enrolment.

(3) The principal must ensure that information provided to the principal under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was provided.

62 Matters to be considered by principal of Government school

(1) In determining an application forwarded under section 60(3), the principal of a Government school must consider all relevant matters, including the following:

(a) any criminal record report forwarded under section 61(2) with the application;

(b) the nature of any pending charge disclosed in the application;

(c) the reason given by the applicant for seeking enrolment;

(d) the likely educational outcome of enrolment and whether the same or a similar outcome could be obtained by other means;

(e) the safety and welfare of staff and other students;

(f) the suitability of other education, training or employment options.

(2) The principal must determine whether the applicant must also apply for the grant of any additional semesters of Government school education and, if so, advise the applicant to apply under Part 5, Division 4.

63 Provisions applying to application for enrolment in Government school

(1) An application under Part 5, Division 4 may be determined concurrently with an application under this Division for enrolment in a Government school.

(2) The principal of the Government school must decide whether to grant or refuse an application under this Division within 14 days after receiving it.

(3) As soon as practicable after the principal has made a decision under subsection (2), the principal must give written notice of the decision to the applicant.

64 Review of decision of principal of Government school

(1) A decision of a principal of a Government school under section 63(2) is reviewable by the CEO on an application made by the person to whom the decision relates.

(2) An application for a review of a decision by the CEO must be made in writing and given to the CEO within 14 days after the day on which the applicant is given notice of the decision under section 63(3).

(3) The CEO may extend the time allowed for making an application mentioned in subsection (2).

(4) The CEO must make a decision on the review as soon as practicable after the application for review is made.

(5) In making a decision under subsection (4), the CEO may:

(a) confirm the decision under review; or

(b) vary the decision under review; or

(c) set aside the decision under review and substitute a different decision.

(6) As soon as practicable after the CEO has made a decision under subsection (4), the CEO must give written notice of the decision to the applicant and the principal whose decision was reviewed.

65 Power to cancel enrolment of mature age student in Government school

The principal of a Government school may, by written notice given to a mature age student, cancel the enrolment of the student in the school if the student:

(a) without reasonable excuse, has not attended the school for at least 8 school weeks; or

(b) over a period of at least 8 school weeks has, without reasonable excuse, attended the school for less than 50% of the time during which instruction is provided at the school; or

(c) in the opinion of the principal – is not making satisfactory progress.

Division 6 International students

66 Enrolment of international students

(1) An international student, or a person who intends to become an international student, who meets any eligibility criteria prescribed by regulation may apply to the principal of a Government school for enrolment in the school.

(2) The principal may enrol an applicant under subsection (1) in the school.

67 Fees

(1) Regulations may provide for fees payable by international students enrolled in Government schools:

(a) for education services provided to them by Government schools; and

(b) for the provision to them of facilities or arrangements for their accommodation.

(2) The CEO may, by written notice given to an international student, specify the date on which a fee is due and payable by the student.

(3) A fee that is payable by an international student under this section must be paid by the due date.

(4) The CEO may, by written notice given to an international student, cancel the enrolment of the international student in the Government school if any fee payable by the international student is not paid by the due date.

Division 7 Enrolment of non-Territory students in distance education centres

68 Enrolment in distance education centre by overseas student

(1) A person who is not an Australian citizen or resident in Australia and who is under the age of 18 years may apply to the CEO for enrolment in a distance education centre.

(2) The CEO may enrol an applicant under subsection (1) if satisfied that the applicant is, at the time of enrolment, under the age of 18 years.

69 Fees for distance education centres

(1) Regulations may provide for fees for the provision of education services by distance education centres to the following classes of students:

(a) students who are not Australian citizens or resident in Australia;

(b) students whose usual place of residence is not in the Territory.

(2) The CEO may, by written notice given to a student, specify the date on which a fee is due and payable.

(3) A fee that is payable in respect of a student enrolled in a distance education centre must be paid by the due date.

(4) The CEO may, by written notice given to a student, cancel the enrolment of the student in the distance education centre if any fee payable by the student is not paid by the due date.

Division 8 Further education or training

70 Parents to ensure participation in eligible option

(1) This section applies in relation to a child who:

(a) completes year 10 of secondary education and is under the age of 17 years; and

(b) is not exempt from participating in an eligible option.

(2) A parent who has daily care and control of the child must ensure the child participates in an eligible option.

Maximum penalty: For a first offence – 15 penalty units.

For a second or subsequent offence – 20 penalty units.

(3) If the child is living independently, the child must participate in an eligible option.

Maximum penalty: For a first offence – 1.5 penalty units.

For a second or subsequent offence – 2 penalty units.

(4) An offence against subsection (2) or (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (2) or (3) if the defendant has a reasonable excuse.

71 Inquiries about participation in eligible option

(1) For the effective administration of this Division, the CEO may make any inquiries that the CEO considers appropriate.

(2) If the CEO has information that a person is the provider of an eligible option to a child, the CEO may require the person to give information about the child's participation in the eligible option.

(3) The requirement must be made by written notice given to the person.

(4) The person must comply with the notice.

Maximum penalty: For a first offence – 15 penalty units.

For a second or subsequent offence – 20 penalty units.

(5) An offence against subsection (4) is an offence of strict liability.

(6) The CEO may also ask a child to give information about the child's participation in an eligible option.

(7) The request must be made by written notice given to the child.

(8) The child must comply with the notice.

Maximum penalty: For a first offence – 1.5 penalty units.

For a second or subsequent offence – 2 penalty units.

(9) An offence against subsection (8) is an offence of strict liability.

(10) It is a defence to a prosecution for an offence against subsection (4) or (8) if the defendant has a reasonable excuse.

(11) Subsections (2) and (6) do not limit subsection (1).

(12) In this section:

provider, of an eligible option to a child, means a person who:

(a) provides the child with approved education or training of a kind mentioned in section 38(5); or

(b) employs the child.

72 Requirement to notify changes in participation in eligible option

(1) This section applies in relation to a child who:

(a) is under the age of 17 years and not exempt from participating in an eligible option; and

(b) participates in an eligible option after having completed year 10 of secondary education.

(2) A parent of the child who has daily care and control of the child must notify the CEO, in writing, of any change to the child's participation in an eligible option as soon as practicable after the change occurs.

Maximum penalty: For a first offence – 15 penalty units.

For a second or subsequent offence – 20 penalty units.

(3) If the child is living independently, the child must notify the CEO, in writing, of any change to the child's participation in an eligible option as soon as practicable after the change occurs.

Maximum penalty: For a first offence – 1.5 penalty units.

For a second or subsequent offence – 2 penalty units.

(4) For subsection (2) or (3), a change to a child's participation in an eligible option includes:

(a) the child ceasing to participate in the eligible option; or

(b) a change in the type of eligible option in which the child participates; or

(c) the child ceasing to participate on a full-time basis in the eligible option.

Part 5 Government schools

Division 1 Declaration

73 Declaration of school as Government school

(1) The Minister may, by *Gazette* notice, declare a school to be a ***Government school***.

(2) However, the Minister must not declare a school that is wholly maintained otherwise than by Territory or Commonwealth funding to be a Government school.

74 Designation of independent public schools

(1) The CEO may, by *Gazette* notice, designate a Government school as an ***independent public school***.

(2) The purpose of a designation under subsection (1) is to recognise that the school has, under this Act, greater autonomy to undertake the provision of education to children and young persons in the community that it serves.

Division 2 Cost of Government school education

75 Government school education to be free

(1) This section applies in relation to a student:

(a) whose usual place of residence is in the Territory; and

(b) who is an Australian citizen or permanent resident in Australia or a child of such a citizen or resident; and

(c) who is enrolled in a Government school.

(2) The cost of providing the following at the Government school to the student must be met by the Territory:

(a) instruction that forms part of the program that is prescribed by regulation (the ***standard curriculum program***);

(b) any materials or administrative or other services or facilities provided as part of the standard curriculum program.

(3) This section does not affect the power of a school representative body under section 107(1)(m), or of a school management council or multi-school management council under section 119(1)(i), to impose a charge for the provision to a student of anything not covered by subsection (2).

76 Government schools may charge non-Government schools

(1) This section applies if a Government school allows a student enrolled in a non-Government school to participate in an education program offered at the Government school.

(2) Regulations may provide for fees that may be imposed by the Government school on the non-Government school for the participation of the student in the education program.

Division 3 Enrolment

77 Guidelines

The CEO may prepare and publish guidelines, not inconsistent with this Act, about the enrolment of students in Government schools.

78 Priority enrolment areas

(1) This section does not apply to a Government school that is a distance education centre.

(2) The CEO may, by written notice given to the principal of a Government school, determine a geographical area as the ***priority enrolment area*** for the school.

(3) The CEO may, at any time when the CEO considers it appropriate to do so, by written notice given to the principal, amend a Government school's priority enrolment area.

(4) The amendment of a Government school's priority enrolment area has no effect on the continued enrolment of a student who was enrolled in the school immediately before that amendment.

79 School enrolment management plan

(1) This section does not apply to a Government school that is a distance education centre.

(2) A ***school enrolment management plan*** for a Government school is a document that:

(a) states the school's priority enrolment area; and

(b) states principles according to which applications for enrolment by children who usually reside outside the school's priority enrolment area are to be determined; and

(c) is consistent with any guidelines in force under section 77.

(3) The principal of a Government school must prepare a draft school enrolment management plan for the school as soon as practicable after becoming aware that the school has reached the proportion of its enrolment capacity that is prescribed by regulation.

(4) The principal must submit a draft plan prepared under subsection (3) to the CEO for approval.

(5) As soon as practicable after receiving a draft school enrolment management plan, the CEO must:

(a) approve the plan or amend the plan and approve it as amended; and

(b) give written notice of the approval to the principal.

(6) The CEO may at any time, by written notice given to the principal of a Government school, direct the principal:

(a) to prepare a new draft school enrolment management plan for the school; and

(b) to submit the draft school enrolment management plan to the CEO for approval under subsection (4) within the period specified in the notice.

(7) The principal of a Government school that has a school enrolment management plan must comply with the plan in enrolling children in the school.

80 Direction about enrolment

(1) This section applies if the CEO believes on reasonable grounds that:

(a) the enrolment of a student in a particular Government school is likely to constitute a risk of physical or psychological harm to the student, staff or other students; or

(b) the enrolment of a student in a school, other than a particular Government school, is likely to constitute a risk of physical or psychological harm to the student, staff or other students; or

(c) a particular Government school may be better able to meet the particular needs of a student than any other Government school.

(2) The CEO may direct that:

(a) the student is not to be enrolled in a specified Government school; or

(b) if the student is to be enrolled in a Government school – the student must be enrolled in a specified Government school; or

(c) if the student is enrolled in a Government school – the student is to be enrolled instead in a specified Government school on and from the date specified in the direction.

(3) The direction must be by written notice given to:

(a) a parent who has daily care and control of the student; or

(b) if the student is living independently – the student.

(4) The student must not be enrolled in a Government school in contravention of the direction.

(5) This section does not limit Part 4, Division 4.

81 Conditions on enrolment for behaviour management purposes

(1) The CEO may attach reasonable conditions to the enrolment of a particular student in a Government school for the purpose of managing the student's behaviour.

(2) Conditions are attached under subsection (1) by the CEO giving written notice of them to:

(a) a parent who has daily care and control of the student or, if the student is living independently, the student; and

(b) the principal of the school.

Division 4 Allocation of Government school education

82 Standard allocation

(1) A student enrolled in a Government school has an allocation of 26 semesters of Government school education (the ***standard allocation***) from transition year to year 12.

(2) If a student applies to the principal of a Government school for enrolment for a year other than transition year, the principal must determine the year level in which the student is to be placed.

(3) A student mentioned in subsection (2) is entitled to an allocation of semesters of Government school education comprised of:

(a) one or 2 semesters for the year level in which the student is placed, depending on the time of the year at which the placement is made; and

(b) 2 semesters for each subsequent year to the end of year 12.

(4) Subsection (5) applies if a student enrolled in a Government school does not attend the school for a period of more than 8 weeks in a semester.

(5) The semester:

(a) is counted as part of the student's standard allocation if the absence was not approved by the principal; but

(b) is not counted as part of the student's standard allocation if the absence was approved by the principal.

(6) If a student enrolled in a Government school repeats one or more years of schooling:

(a) the repeated year (or first repeated year) does not count as part of the student's standard allocation; and

(b) any other repeated year counts as part of the student's standard allocation.

83 Additional allocation

(1) A student, or a parent of a student, who has exhausted the standard allocation, or any additional allocation granted under this section, may apply to the CEO, in the approved form, for a grant of up to 2 additional semesters of Government school education.

(2) An application under subsection (1) must be made no later than 30 days before the beginning of the additional semester, or first additional semester, to which the application relates.

(3) However, the CEO may, if the CEO considers that the circumstances make it reasonable to do so, accept an application under subsection (1) made later than as mentioned in subsection (2).

(4) The CEO may:

(a) grant or refuse an application or, in the case of an application for 2 additional semesters, partially grant the application; and

(b) determine the location and form of the educational instruction to be provided to the student having regard to:

(i) the educational needs of the student; and

(ii) the safety and welfare of staff and other students.

(5) Regulations may specify:

(a) the procedure to be followed by the CEO in determining an application, including matters to which the CEO must have regard; and

(b) without limiting subsection (6), conditions that the CEO may impose on the grant of an application.

(6) The CEO may impose any condition on the grant that the CEO considers appropriate including, if the student is a mature age student, a requirement to comply with Part 4, Division 5.

(7) The CEO must make a decision on an application within 30 days after receiving it.

(8) As soon as practicable after the CEO has made a decision under subsection (7), the CEO must give a decision notice to:

(a) the applicant; and

(b) if the applicant is a student who is not a child living independently, a parent who has daily care and control of the student; and

(c) the principal.

84 Cancellation of additional allocation

(1) The CEO may, at any time, cancel the enrolment of a student in a Government school for an additional semester if of the opinion that the student has breached any condition imposed under section 83(6).

(2) As soon as practicable after the CEO has made a decision to cancel an enrolment under subsection (1), the CEO must give a decision notice to:

(a) the student; and

(b) if the student is not a child living independently, a parent who has daily care and control of the student; and

(c) the principal.

Division 5 Instruction in Government schools

85 Responsibility of CEO for curricula

(1) Subject to this section, the CEO is responsible for:

(a) the curricula in accordance with which instruction is provided in Government schools; and

(b) the standards of education in Government schools.

(2) Without limiting subsection (1), the CEO may, either generally or in relation to a particular school:

(a) subject to any advice provided under section 25(a)(ii) or (iii), make available to schools any examination or assessment systems or arrangements that the CEO considers necessary or desirable; or

(b) give any written directions as to the content, methods and evaluation of teaching and learning in Government schools that the CEO considers appropriate.

(3) For subsection (2)(a), the CEO may make arrangements with one or more educational institutions in Australia, or with one or more of the States or another Territory that administers education services, for the provision by them in the Territory of examination systems.

(4) The CEO may prepare and publish, for the guidance of Government schools, guidelines, not inconsistent with this Act, for or in relation to curricula or teaching methods.

(5) A Government school must comply with any guidelines published under subsection (4).

(6) The CEO may give a written direction to the principal of a Government school on any matter relating to curricula, teaching methods, assessment or reporting procedures at the school.

(7) The principal must comply with any direction given to the principal under subsection (6).

86 Religious instruction in Government schools

(1) Subject to this section, the CEO may provide for religious instruction to be given to students who are enrolled in a Government school on any conditions, and at any time during school hours, that the CEO considers appropriate.

(2) A parent of a student enrolled in a Government school may, in writing, request the CEO to permit religious instruction to be given to the student by a minister of religion nominated by the parent or by a person authorised by that minister.

(3) The CEO may, if the CEO considers it practicable to do so, permit a minister of religion, or a person authorised by a minister of religion, to give religious instruction during school hours to students whose parents requested that instruction under subsection (2).

(4) Religious instruction permitted under subsection (3) must be given for not less than half an hour at a time in every school week, on the days and at the times that the CEO determines.

87 Student may be withdrawn from specified course

(1) A parent of a student enrolled in a Government school may request the principal of the school to withdraw the student from the whole or a specified part of a specified course of instruction provided for the student at the school.

(2) The principal:

(a) may agree to the request and make the necessary arrangements to comply with the request if satisfied it is appropriate to do so; and

(b) must make the necessary arrangements to comply with the request if:

(i) the course of instruction specified in the request is a course of religious instruction; or

(ii) the parent claims to have a conscientious objection to the student attending the course or part of the course and the course is not a mandatory part of the curriculum.

88 Guidelines on flexible education provision

(1) The CEO may prepare and publish guidelines, not inconsistent with this Act, for or in relation to the provision by Government schools of:

(a) education programs by a method different to the method by which they are ordinarily provided; or

(b) education programs modified for particular kinds of students.

(2) Without limiting subsection (1), guidelines may be made about the following matters:

(a) the content of the programs;

(b) the method by which the programs may be provided;

(c) the students to whom, and the circumstances in which, the programs may be provided;

(d) the use of staff or facilities in providing the programs.

(3) A Government school must comply with any guidelines published under subsection (1).

Division 6 Medical and dental inspections

89 Medical and dental inspections

(1) The Minister may cause any Government school to be visited by a medical practitioner, dentist, midwife or nurse for the purpose of:

(a) the medical or dental examination of the students in attendance at the school; or

(b) advising the principal on any matter relating to the health or welfare of the students enrolled in the school.

(2) In this section:

dentist means a person registered under the Health Practitioner Regulation National Law:

(a) to practise in the dental profession as a dentist (other than as a student); and

(b) in the dentists division of that profession.

midwife means a person registered under the Health Practitioner Regulation National Law to practise in the midwifery profession (other than as a student).

nurse means a person registered under the Health Practitioner Regulation National Law to practise in the nursing profession (other than as a student).

Division 7 Managing behaviour

90 Management of behaviour

(1) In making a decision relevant to the management of the behaviour of a student enrolled in a Government school, the principal must have regard to the following matters:

(a) the age of the student;

(b) the developmental stage of the student;

(c) whether the student is a child with special learning needs;

(d) the mental health and wellbeing of the student;

(e) the physical health and wellbeing of the student;

(f) any relevant religious or cultural considerations;

(g) the student's home environment and the arrangements in place for the student's care.

(2) The CEO may prepare and publish guidelines, not inconsistent with this Act, relating to the management of the behaviour of students enrolled in Government schools.

(3) The principal of a Government school must comply with any guidelines published under subsection (2) in making a decision mentioned in subsection (1).

Division 8 Suspension, exclusion and expulsion

91 Suspension by principal

(1) This section applies if the principal of a Government school is satisfied that a student who is enrolled in the school should be suspended from attending the school because the student's presence is likely to constitute a risk of physical or psychological harm to other persons at the school.

Example for subsection (1)

The student has repeatedly engaged in behaviour that negatively impacts on the psychological welfare of other students at the school.

(2) The principal may, by written notice given to the student, suspend the student from attending the school either wholly or to the extent specified in the notice.

(3) A notice of suspension may include any conditions the principal considers appropriate and with which the student must comply.

(4) The principal must, as soon as practicable, give a copy of the notice of suspension and a report of the circumstances to:

(a) the CEO; and

(b) if the suspended student is a child not living independently – a parent who has daily care and control of the student.

(5) The suspension has effect:

(a) for the period, not exceeding 20 school days, specified in the notice of suspension; or

(b) if the Minister expels the student under section 93 within the period mentioned in paragraph (a) – until the expulsion.

92 Exclusion by CEO

(1) This section applies if a student who is enrolled in a Government school is charged with an offence, whether committed in or outside the Territory, punishable by a term of imprisonment of more than 2 years.

(2) The CEO may, as specified in a written notice given to the student, exclude the student, until the charge is determined by a court or otherwise withdrawn, from:

(a) the whole or part of any land, premises or facility occupied or used by the school; or

(b) participation in any program or activity conducted by or on behalf of the school.

(3) The CEO may give a notice under subsection (2) only if of the opinion that it is necessary to do so because the student's presence is likely to constitute an unacceptable risk of physical or psychological harm to other persons at the school.

(4) As soon as practicable after excluding a student who is a child not living independently, the CEO must give a copy of the notice of exclusion to a parent who has daily care and control of the student.

(5) A student who is given a notice under subsection (2) or a parent who is given a copy of a notice under subsection (4) may apply, as specified in the Regulations, for the CEO to review the decision to exclude the student.

(6) The CEO, after reviewing the decision, may do one of the following:

(a) confirm the decision;

(b) vary the decision;

(c) set aside the decision and substitute a different decision.

(7) The CEO, as soon as practicable after reviewing the decision, must give a decision notice to the student, or to the student and a parent who has daily care and control of the student, as appropriate.

(8) If an exclusion has the effect of preventing the student from attending all Government schools, the CEO must take reasonable steps to arrange for the student's participation in an education program that allows the student to continue their education during the exclusion.

93 Expulsion by Minister

(1) If the Minister considers it necessary in the interests of other persons present at a Government school, the Minister may, by written notice given to a student enrolled in the school, expel the student from the school.

(2) As soon as practicable after expelling a student who is a child not living independently, the Minister must give a copy of the notice of expulsion to a parent who has daily care and control of the child.

(3) A student who is given a notice under subsection (1) or a parent who is given a copy of a notice under subsection (2) may apply, as specified in the Regulations, for the Minister to review the decision to expel the student.

(4) The Minister may review the expulsion decision and revoke the notice if satisfied the student should no longer be expelled from the school.

(5) If the Minister decides to revoke the notice, the Minister must, as soon as practicable after making the decision, give a written notice of revocation to:

(a) the expelled student; or

(b) for a student who is a child not living independently – a parent having daily care and control of the student.

(6) If the Minister decides not to revoke the notice, the Minister must, as soon as practicable after making the decision, give a decision notice to:

(a) the expelled student; or

(b) for a student who is a child not living independently – a parent who has daily care and control of the student.

94 Parent to ensure non-attendance

(1) This section applies if a parent of a student, or a student who is a child living independently, has been notified:

(a) under section 41 that the student is not to attend school for a period; or

(b) under section 91 that the student is suspended from attending a school for a period; or

(c) under section 92 that the student is excluded from:

(i) any land, premises or facility occupied or used by a school; or

(ii) participation in any program or activity conducted by or on behalf of a school; or

(d) under section 93 that the student is expelled from a school.

(2) The parent of a student who is a child not living independently must ensure the student complies with the notice.

Maximum penalty: For a first offence – 15 penalty units.

For a second or subsequent offence – 20 penalty units.

(3) If a student who is a child living independently has been notified as mentioned in subsection (1), the student must comply with the notice.

Maximum penalty: For a first offence – 1.5 penalty units.

For a second or subsequent offence – 2 penalty units.

(4) An offence against subsection (2) or (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (2) or (3) if the defendant has a reasonable excuse.

95 Re-enrolment after expulsion

If a student has been expelled from a Government school, the student must not be enrolled in a Government school unless:

(a) the Minister gives permission for the enrolment; or

(b) the school is a distance education centre.

Note for section 95

If the expelled student is a child of compulsory school age, Part 4 continues to apply in relation to the child despite the expulsion.

Division 9 Amalgamation or closure of Government schools

96 Amalgamation or permanent closure of Government school

(1) The Minister may, on any terms and conditions that the Minister considers appropriate:

(a) amalgamate 2 or more Government schools; or

(b) permanently close a Government school.

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

97 Consultation before amalgamation or permanent closure

(1) This section applies if the Minister proposes to exercise a power under section 96(1).

(2) The Minister must consult on the proposal with:

(a) the principal and staff of the school or schools affected by the proposal; and

(b) the students enrolled in the school or schools affected by the proposal and their parents; and

(c) any bodies that the Minister considers to be representative of the persons mentioned in paragraph (a) or (b) or of the community in which the school or schools affected by the proposal is or are located.

(3) The Minister must consult on the following matters:

(a) alternative arrangements for the enrolment of students affected by the proposal and the appropriateness of those arrangements;

(b) alternative arrangements for allocating to one or more other schools the principal and staff affected by the proposal;

(c) the provision of education or training services to students affected by the proposal;

(d) the disposal of any assets realised as a result of the proposal;

(e) any other matter that the Minister considers appropriate.

(4) The Minister may consult in the manner that the Minister considers appropriate and the Minister's decision on the manner of consultation cannot be challenged, reviewed or called into question by a court or tribunal.

98 *Gazette* notice required for permanent closure

(1) This section applies if the Minister proposes to permanently close a Government school under section 96(1)(b).

(2) The Minister must publish notice of the proposal in the *Gazette*.

(3) The Government school to which a notice under subsection (2) applies cannot be closed:

(a) unless the consultation required by section 97 occurs after the publication of the notice; and

(b) subject to subsection (4), until the expiry of a period of 12 months after that publication.

(4) The requirement for a period of 12 months mentioned in subsection (3)(b) does not apply if the Minister is sooner satisfied that:

(a) a majority of the parents of the students enrolled in the school wish the school to be closed before the expiry of that period; and

(b) there are special circumstances that justify doing so.

99 Permanent closure for safety or welfare reasons

The Minister may, by *Gazette* notice, permanently close a Government school under section 96(1)(b) without complying with section 97 or 98 if of the opinion that the safety or welfare of staff or students at the school is likely to be at risk if the school is not closed as soon as practicable.

100 Temporary closure of Government school

(1) The CEO may temporarily close a Government school if the CEO considers it appropriate to do so:

(a) because of a short-term risk to the safety or welfare of staff or students at the school; or

(b) for cultural reasons; or

(c) for any other reason.

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

(3) This section does not affect the operation of the *Emergency Management Act 2013*.

Division 10 Accommodation

101 Compliance with boarding school standard

Any person or body providing facilities for the accommodation of students enrolled in a Government school must ensure that the facilities meet any relevant Australian Standard.

Part 6 Parent and community involvement in Government schools

Division 1 Objects of Part

102 Objects of Part

The objects of this Part are:

(a) to recognise the importance of parents and communities in the governance of Government schools; and

(b) for that purpose, to provide for the establishment and operation of school representative bodies and require principals of Government schools to take reasonable steps to establish them; and

(c) to recognise that independent public school boards are accountable to their local communities for the achievement of educational outcomes for children and young persons in those communities; and

(d) to provide for the establishment of a parent consultative group at a Government school at which there is not a school representative body and at which it is not reasonably practicable for one to be established.

Division 2 School representative bodies

103 Establishment of school representative body

(1) The principal of a Government school must, if there is no school representative body established for the school, take reasonable steps each year to ensure that one is established for the school.

(2) Subject to subsection (3), the Minister may, by *Gazette* notice, at the request of a body involved in the management of, or from the community served by, one or more Government schools, establish a school representative body for the Government school or schools.

(3) The Minister must not establish a school representative body under subsection (2) unless the Minister is satisfied that the school representative body will operate, on its establishment, in accordance with this Part.

(4) A school representative body:

(a) for a Government school that is an independent public school, may be referred to as an independent public school board; and

(b) for any other Government school, may be referred to as a school council; and

(c) for more than one Government school, may be referred to as a joint school representative body.

(5) Subject to section 104(2), a school representative body consists of members in the classes of members prescribed by regulation, of which at least 50% must be parents of students enrolled at the Government school or any of the Government schools for which the school representative body is established.

(6) The members of a school representative body hold office on the terms and conditions prescribed by regulation.

(7) Without limiting subsection (6), the CEO may remove a member of a school representative body from office:

(a) for misconduct; or

(b) for failure or incapacity to carry out the duties of the office; or

(c) for any other reasonable cause.

(8) The Regulations may:

(a) specify the procedure for the appointment of a chairperson; and

(b) provide for the filling of casual vacancies; and

(c) specify:

(i) how meetings may be called; and

(ii) how many members constitute a quorum at a meeting; and

(iii) how questions arising at a meeting are to be determined; and

(iv) the business to be conducted, and procedure to be followed, at a meeting; and

(v) the records to be kept of meetings.

104 Independent public school boards

(1) An independent public school board must perform its functions in a way that achieves the best educational outcomes for the students enrolled in the school.

Note for subsection (1)

Section 103(4)(a) provides that a school representative body of an independent public school may be referred to as an independent public school board.

(2) The Minister may, on the application of an independent public school board, modify by *Gazette* notice the application to the board of section 103(5) or of any regulations made under that subsection.

(3) Regulations may specify the procedure to be followed by the Minister in relation to an application, including any of the following:

(a) matters to which the Minister must have regard;

(b) the powers that the Minister may exercise;

(c) the period within which the Minister must determine an application.

(4) The Minister must, by *Gazette* notice, publish notice of a modification mentioned in subsection (2) ceasing to apply as soon as practicable after that circumstance occurs.

105 Restrictions on school representative body

(1) Subject to subsection (2), a school representative body must:

(a) comply with the terms of reference determined under section 108(2); and

(b) comply with the guidelines published under section 112(1).

(2) The Minister may, on any terms and conditions that the Minister considers appropriate, exempt a school representative body from complying with subsection (1)(b).

106 Incorporation of school representative body

(1) A school representative body:

(a) is a body corporate with perpetual succession and a common seal; and

(b) except for a joint school representative body, is capable in its corporate name, subject to the regulations, of:

(i) entering into agreements; and

(ii) acquiring, holding, dealing with and disposing of real and personal property; and

(c) is capable of suing and being sued in its corporate name.

(2) A school representative body must adopt the model constitution published under section 108(3) (with variations in particulars as mentioned in section 108(4)) as the constitution of the body at any time on or after its establishment.

(3) All courts, judges and persons acting judicially must take judicial notice of the common seal of a school representative body affixed to a document and are to presume that it was duly affixed.

(4) A school representative body:

(a) represents the Territory; and

(b) enjoys the privileges, rights or immunities of the Crown in right of the Territory; and

(c) is within the shield of the Crown in right of the Territory.

107 Functions of school representative body

(1) Subject to subsection (2), a school representative body may, in respect of the Government school or any of the Government schools for which the school representative body is established, do any of the following:

(a) examine how the educational policies of the Territory are to be implemented at the school and advise the principal accordingly;

(b) inquire into, and identify, the particular educational needs of the community served by the school and advise the CEO with respect to those needs;

(c) consider and advise the principal and CEO with respect to community education initiatives and, in particular, on means for improving links between the school, parent organisations and the community in general;

(d) assess, from time to time, the following needs and make recommendations to the CEO with respect to satisfying them:

(i) the needs of the school for buildings, facilities and equipment;

(ii) the needs of students, teachers and other staff;

(e) within the scope allowed by the functions conferred on the body, determine the purposes for which money allocated by the Agency to the school is to be expended and expend money paid by the Agency to the school;

(f) determine whether, and regulate how, the buildings or grounds of the school may be used for the conduct of activities for the benefit of the community served by the school at any time when they are not required for school purposes;

(g) exercise general control over the buildings and grounds of the school, including (with the consent of the CEO) controlling, on any terms and conditions approved in writing by the CEO, the conduct of work carried out in or on them;

(h) control the manner in which services of a kind prescribed by regulation are provided for the school;

(i) advise the CEO about the job description for the position of principal;

(j) advise the principal about the job descriptions for teaching and ancillary staff;

(k) in accordance with the *Fair Work Act 2009* (Cth) and any relevant award, employ persons on any terms and conditions that are approved in writing by the CEO;

(l) carry out any activities, if approved by the CEO, for raising money to be expended on, or in relation to, the school and expend that money accordingly;

(m) determine fees that may be charged for the provision to a student of any approved materials, services or facilities not covered by section 75(2) that a parent of the student chooses to have provided to the student;

(n) seek voluntary contributions from parents of students enrolled in the school for a purpose prescribed by regulation;

(o) perform any other functions as directed by the CEO.

(2) A joint school representative body does not have the functions mentioned in subsection (1)(e), (g), (h), (k), (m) or (n).

Note for subsection (2)

A school management council has these functions. See section 119.

(3) Subsection (4) applies if both a school representative body (not being a joint school representative body) and a school management council or multi-school management council are established in respect of a Government school.

(4) The school representative body must not, except with the approval of the CEO, perform a function under subsection (1) that is also a function of the school management council or multi-school management council under section 119.

(5) In subsection (1)(m):

approved means approved as an item for which a fee may be charged:

(a) by regulation; or

(b) by the CEO.

108 Powers of, and terms of reference and model constitution for, school representative body

(1) A school representative body has the powers necessary to perform its functions.

(2) The Minister may, in writing given to the school representative body, determine terms of reference for the body.

(3) The Minister may prepare and publish a model constitution for a school representative body.

(4) A model constitution published under subsection (3) may specify particulars that may be varied by a school representative body on adopting it.

109 Power to make grants

The Minister may make a grant of money to a school representative body, other than a joint school representative body, on any terms and conditions that the Minister considers appropriate.

110 Money of school representative body

(1) The money of a school representative body consists of:

(a) for a school representative body other than a joint school representative body – money allocated by the Agency to the Government school in respect of which the body is established; and

(b) money raised under section 107(1)(l); and

(c) money granted under section 109.

(2) The Regulations may provide for:

(a) the opening and operation of bank accounts by a school representative body; and

(b) the purposes for which money in a bank account may be used; and

(c) the auditing of the accounts of a school representative body; and

(d) the ownership of materials or other property purchased by a school representative body.

111 Financial records

(1) A school representative body must keep financial records of any money received by the body and any dealings with that money.

(2) Financial records must be kept in the manner prescribed by regulation or in any manner, consistent with the Regulations, that is specified in writing by the CEO acting with the advice of the Treasurer.

(3) The CEO, or a person authorised in writing for that purpose by the CEO, may, at any time, inspect or audit the financial records of a school representative body.

(4) The Regulations may provide for the appointment of a secretary or treasurer to a school representative body.

112 Guidelines

(1) The CEO may prepare and publish guidelines, not inconsistent with this Act, for or in relation to the performance by school representative bodies of functions conferred on them by this Act.

(2) Without limiting subsection (1), guidelines may be made about the following matters:

(a) regulating the establishment of committees to help a school representative body perform its functions;

(b) regulating the calling of meetings of:

(i) school representative bodies or committees mentioned in paragraph (a); or

(ii) parents and teachers;

(c) regulating proceedings and voting at meetings mentioned in paragraph (b);

(d) accountability requirements;

(e) regulating:

(i) a school representative body's provision of meals or refreshments for the staff or students of the school, or any of the schools, for which the body is established; and

(ii) the amounts the body may charge for providing those meals or refreshments;

(f) subject to section 111, regulating:

(i) the manner in which a school representative body is to keep proper accounts of any money received by the body and any dealings with that money; and

(ii) the auditing of those accounts;

(g) the respective functions of the principal, the teachers and the school representative body, and how their functions relate to each other;

(h) without limiting paragraph (g), prohibiting a school representative body, or a member of such a body when acting in that capacity, from directing teachers in relation to their professional duties;

(i) prohibiting members of a school representative body from being financially interested, directly or indirectly, in work carried out for, or services rendered for the benefit of, the school, or any of the schools, for which it is established:

(i) if the work or services are authorised by the body; and

(ii) unless each financial interest is approved by the CEO.

113 Powers of CEO with respect to school representative body

(1) The CEO may investigate any suspected failure by a school representative body to comply with a requirement of the body under this Act, including non-compliance with a legal, financial or governance obligation.

(2) The CEO may, whether or not following an investigation under subsection (1), give a direction to a school representative body about the performance of its functions, if the CEO considers it appropriate to do so having regard to how the body is performing or not performing its functions.

(3) A school representative body must comply with a direction given to the body under subsection (2) within the period specified in the direction.

(4) If a school representative body does not comply with a direction in accordance with subsection (3), the CEO may give the body a written notice (a ***show cause notice***) that:

(a) states the action (the ***proposed action***) that the CEO is proposing to take in relation to the body; and

(b) states the grounds for the proposed action; and

(c) gives a brief description of the facts and circumstances forming the basis for the grounds; and

(d) invites the school representative body to show within a stated period (the ***show cause period***) why the proposed action should not be taken.

(5) The show cause period must end no sooner than 30 days after the show cause notice is given to the school representative body.

(6) After considering any response received from the school representative body within the show cause period, the CEO may:

(a) by notice given to the school representative body, suspend the body from operating for a period specified in the notice that is not longer than the period prescribed by regulation; or

(b) take any other action that the CEO has power to take; or

(c) decide not to take any action.

(7) Action may be taken under subsection (6)(a) or (b) only if it was a proposed action stated in the show cause notice.

(8) Action may be taken under subsection (6)(a) only if the CEO considers that the seriousness of the circumstances is such that it is necessary to take that action.

114 Abolition of school representative body

(1) The Minister may, by written notice given to a school representative body, abolish the school representative body if:

(a) the Government school, or each Government school, for which the body is established is closed; or

(b) the school representative body so requests; or

(c) in the opinion of the Minister, the school representative body is not complying with the requirements of this Part applicable to school representative bodies.

(2) Subject to subsection (3), any person who has possession of the money, books, records or property of a school representative body abolished under subsection (1), or of a school mentioned in subsection (1)(a), must deal with it or them as directed by the Minister.

(3) The Minister may use money, books or property mentioned in subsection (2) for the purposes of any Government school or school representative body.

(4) The school representative body for a Government school mentioned in subsection (1)(a) may direct that, on the abolition of the body, money, books and property belonging to the body be given to:

(a) the Minister for the benefit of a specified Government school; or

(b) a specified school representative body.

(5) Money, books and property mentioned in subsection (4) must, as the case requires:

(a) be used by the Minister for the benefit of the specified Government school; or

(b) become the money, books and property of the specified school representative body.

115 Non-application of other Acts

Unless express provision is made to the contrary in this Act or the Regulations, the *Financial Management Act 1995*, the *Audit Act 1995* and the *Procurement Act 1995* do not apply to a school representative body.

Division 3 Parent consultative groups

116 Establishment of parent consultative group

(1) This section applies to a Government school at which:

(a) there is not a school representative body; and

(b) it is not reasonably practicable for one to be established.

(2) The principal of the Government school, or the principals of more than one Government school, may establish an unincorporated ***parent consultative group*** for the Government school or schools.

(3) Any of the following may be appointed as a member of a parent consultative group:

(a) a parent of a student enrolled in the school or any of the schools for which the group is established;

(b) a member of the community served by the school or any of the schools for which the group is established who is interested in promoting the welfare of the school.

117 Functions of parent consultative group

(1) A parent consultative group has the following functions:

(a) to promote the interests of the Government school or schools for which the group is established;

(b) to develop and maintain community interest in educational matters;

(c) if requested by the principal of the Government school or any of the Government schools for which the group is established – to provide advice and recommendations about:

(i) any issue relating to students enrolled in the school; or

(ii) the general operation and management of the school.

(2) To avoid doubt, a parent consultative group does not have power:

(a) in relation to the control or management of the Government school or any of the Government schools for which the group is established; or

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

(c) to exercise authority over teachers or other staff employed by the Government school or any of the Government schools for which the group is established; or

(d) in relation to school financial matters; or

(e) to perform any function of a school representative body.

Division 4 School or multi-school management councils

118 Establishment of school or multi-school management council

(1) The Minister may, by *Gazette* notice, establish:

(a) a school management council for the Government school specified in the notice; or

(b) a multi-school management council for the Government schools specified in the notice.

(2) The Minister may act under subsection (1) even if a school representative body has been established for the Government school, or a joint school representative body has been established for the Government schools, in respect of which the council is established.

(3) The Minister must establish a school management council or multi-school management council under subsection (1) if:

(a) a school representative body has not been established for the school; or

(b) a joint school representative body is proposed to be established for the school and one or more other Government schools; or

(c) the school representative body has been abolished under section 114; or

(d) the school representative body has ceased to operate effectively or at all.

(4) A school management council or multi-school management council consists of the person or persons appointed by the Minister.

(5) The principal of the Government school for which a school management council is established, or of any of the Government schools for which a multi-school management council is established, may be appointed under subsection (4).

(6) Sections 106, 108, 109, 110, 111, 112 and 114 apply to a school management council or multi-school management council in the same way as they apply to a school representative body.

119 Functions of management council

(1) Subject to subsection (2), a school management council or multi-school management council may, in respect of the Government school or any of the Government schools for which it is established, do any of the following:

(a) inquire into, and identify, the particular educational needs of the community served by the school and advise the CEO with respect to them;

(b) assess, from time to time, the following needs, and make recommendations to the CEO with respect to satisfying them:

(i) the needs of the school for buildings, facilities and equipment;

(ii) the needs of students, teachers and other staff;

(c) within the scope allowed by the functions conferred on the council, determine the purposes for which money allocated by the Agency to the school is to be expended and expend it accordingly;

(d) determine whether, and regulate how, the buildings or grounds of the school may be used for the conduct of activities for the benefit of the community served by the school at any time when they are not required for school purposes;

(e) exercise general control over the buildings and grounds of the school, including controlling (on any terms and conditions that the council considers appropriate) the conduct of work carried out in or on them;

(f) control the manner in which services of a kind prescribed by regulation are provided for the school;

(g) in accordance with the *Fair Work Act* 2009 (Cth) and any relevant award, employ persons on any terms and conditions that are approved in writing by the CEO;

(h) carry out any activities, if approved by the CEO, for raising money to be expended on or in relation to the school and expend that money accordingly;

(i) determine fees that may be charged for the provision to a student of any approved materials, services or facilities not covered by section 75(2) that a parent of the student chooses to have provided to the student;

(j) seek voluntary contributions from parents of students enrolled in the school for a purpose prescribed by regulation;

(k) perform any other functions as directed by the CEO.

(2) If both a joint school representative body and a school management council are established in respect of a Government school, the school management council does not have the functions mentioned in subsection (1)(a), (b), (d) or (h).

(3) In subsection (1)(i):

approved means approved as an item for which a fee may be charged:

(a) by regulation; or

(b) by the CEO.

120 Non-application of other Acts

Unless express provision is made to the contrary in this Act or the Regulations, the *Financial Management Act 1995*, the *Audit Act 1995* and the *Procurement Act 1995* do not apply to a school management council or multi-school management council.

Part 7 Non-Government schools

Division 1 Preliminary matters

121 Definitions

In this Part:

basic principles, see section 122.

compliance notice, see section 155A.

director, of a governing body, means:

(a) a member of the board or committee of management (whether or not described as a director) of the governing body; or

(b) any person who is in a position to control or exercise substantial influence over the governing body.

facilities, of a non-Government school, means the buildings, structures or other facilities used for the purposes of the school, including, for example, school playgrounds, annexes and residential facilities.

governing body, of a non-Government school, see section 121A(1).

initial assessment means an assessment of a non-Government school carried out under section 146.

non-Government school includes a proposed non-Government school.

registrar means the registrar of non-Government schools appointed under section 123.

registration, in relation to a non-Government school, means a registration of the school under this Part that is in force.

registration requirements, see section 125.

routine assessment means a routine assessment mentioned in section 147(1).

second compliance notice, see section 155B(2).

special investigation means a special investigation mentioned in section 145B(4) or 147.

unregistered non-Government school means a non-Government school that is not registered under this Part or whose registration under this Part is not in force (including if it is suspended).

variation, of the registration of a non-Government school, means the variation of:

(a) the conditions of the school's registration; or

(b) any other matter on the basis of which the school is registered (including the school's location).

121A Governing bodies

(1) A non-Government school must be administered by a body corporate (a ***governing body***), whose directors:

(a) must be fit and proper persons to be directors of the governing body; and

(b) must between them possess the skills and experience necessary for the proper administration of the school.

(2) A governing body may administer more than one non-Government school.

122 Consistency with basic principles

The following are the principles (the ***basic principles***) with which the philosophy and objects of the governing body of a non-Government school and the school's education programs (including the manner in which they are provided) must be consistent:

(a) governments should be democratically elected;

(b) the rule of law should prevail and all persons should be equal before the law;

(c) there should be freedom of religion, freedom of speech and freedom of association;

(d) there should be tolerance of diverse religious, political, social and cultural beliefs and practices, to the extent to which they are consistent with contemporary values.

123 Registrar of non-Government schools

(1) The Minister must, by *Gazette* notice, appoint a departmental officer, other than the CEO, to be the registrar of non-Government schools.

(2) Before making an appointment the Minister must be satisfied that the person meets the requirements prescribed by regulation.

(4) The registrar is not subject to the direction or control of the CEO in the exercise of any power, or performance of any function, under this Part.

123A Functions of registrar

The registrar has the following functions:

(a) to appoint assessors under section 123B and to direct an assessor accordingly;

(b) to develop and approve standards for registration of non-Government schools under section 123D;

(c) to conduct pre-application assessments under section 128;

(d) to approve or refuse applications for registration under section 137;

(e) to approve systems of self-assessment under section 145;

(f) to authorise special investigations under sections 145B(4) and 147(3);

(g) to establish a schedule of routine assessments under section 147(1);

(h) to vary, suspend or cancel the registration of non-Government schools under Division 9;

(i) to determine reviews of reviewable decisions under section 156B;

(j) to maintain a register of non-Government schools under section 157.

123B Appointment of assessors

(1) The registrar may appoint a person to be an assessor.

(2) The registrar must not appoint a person to be an assessor unless satisfied the person has the knowledge and skills the registrar considers necessary for an assessor.

(3) The appointment of an assessor may be subject to conditions specified by the registrar.

(4) Without limiting subsection (3), a condition may provide that an assessor may:

(a) conduct initial assessments, routine assessments, special investigations or reviews of applications for registration or variations of registration of non-Government schools generally; or

(b) conduct a particular initial assessment, routine assessment, special investigation or review of an application for registration or variation of registration or a particular aspect of an initial assessment, routine assessment, special investigation or review of an application for registration or variation of registration.

(5) When performing functions under this Act an assessor must act independently and not as a representative of either of the following:

(a) any body of which the assessor is an employee, officer or member;

(b) the non-Government education sector.

123C Code of conduct

(1) An assessor must, when performing the assessor's functions under this Act, comply with any code of conduct prescribed for assessors under the Regulations.

(2) An assessor commits an offence if the assessor fails to comply with subsection (1).

Maximum penalty: 20 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant has a reasonable excuse.

Note for subsection (4)

The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).

123D Standards for registration

(1) The registrar may develop and approve standards for registration of non-Government schools.

(2) The standards for registration of non-Government schools must be published on the Agency's website.

Division 2 Requirement for registration

124 Non-Government school must be registered

An unregistered non-Government school must not operate in the Territory.

Note for section 124

Section 126 sets out the consequences for the governing body and the principal if an unregistered non-Government school operates.

125 Registration requirements

The following are the ***registration requirements*** for a non-Government school:

(a) the school must be accountable for its safe, legal and financially viable operation and have in place corporate governance arrangements to support its safe, legal and financially viable operation;

(b) the school must have curricula, teaching and assessment policies and practices and engage sufficient staff to effectively deliver education services for each stage of schooling delivered by the school and to monitor its education achievements;

(c) the school must provide a safe, healthy and supportive learning environment that minimises the risk of harm to students and promotes the wellbeing of students;

(d) the school must comply with any standards for registration of schools, as approved by the registrar from time to time under section 123D;

(e) any other requirements prescribed by regulation.

126 Consequences of operation if not registered

(1) The governing body of an unregistered non-Government school commits an offence if the school is operated in the Territory.

Maximum penalty: 250 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

(4) The principal of an unregistered non-Government school commits an offence if:

(a) the school is operated in the Territory; and

(b) the principal knows the school:

(i) is an unregistered non-Government school; and

(ii) is operated in the Territory.

Maximum penalty: 20 penalty units.

(2) Strict liability applies to subsection (4)(a).

127 Misrepresentation of status of school

A person must not knowingly represent that an unregistered non-Government school is registered.

Maximum penalty: 50 penalty units.

Division 3 Application for registration

128 Pre-application assessment

(1) A person intending to apply for the registration of a non-Government school may ask the registrar:

(a) to make a pre-application assessment of the following:

(i) the effects of the registration on the educational system in the Territory;

(ii) any other matter that may be relevant to the application; and

(b) to indicate whether the application is likely to fail because of any adverse findings of that assessment.

(2) The registrar may make a pre-application assessment, and give an indication mentioned in subsection (1), as the registrar considers appropriate.

129 Application for registration

(1) A person may apply to the registrar for the registration of a non-Government school.

(2) The application must be in writing and accompanied by the prescribed fee.

(3) The application must be made at least 1 year before the school proposes to provide education programs.

(4) However, the registrar may reduce the 1-year period in appropriate cases.

(5) The application must include information as to how the school proposes to meet the registration requirements.

131 Notice to applicant

(1) On receiving an application for the registration of a non-Government school, the registrar must review the application to determine whether it contains the required information.

(2) The registrar may require the applicant to give further information under section 132 if not satisfied that the application contains the required information.

(3) The registrar must, as soon as practicable after being satisfied that the application contains the required information, give written notice to the applicant of the receipt of the application.

132 Registrar may require further information

(1) The registrar may, by written notice to the applicant, require the applicant to give further information relevant to the application within a reasonable period specified in the notice.

(2) The registrar may do so whether or not the notice under section 131(3) has been given and whether or not further information was required to be given under this section as mentioned in section 131(2).

(3) The application lapses if the applicant fails to give the information within the specified period.

Division 4 Review of application by assessor

133 Review of application by assessor

(1) As soon as practicable after giving a notice under section 131(3) for an application, the registrar must refer the application to one or more assessors and direct the assessor or assessors to review and make recommendations to the registrar on the application within a reasonable period specified in the direction.

(2) The assessor or assessors must carry out the review and make recommendations to the registrar by the end of the period specified in the direction.

134 Publication of application

(1) On receiving a referral of an application under section 133(1), an assessor or assessors must publish, in the way the assessor or assessors considers appropriate, a notice:

(a) giving details of the application; and

(b) inviting written submissions from interested members of the public within a reasonable period specified in the notice.

(2) The assessor or assessors must:

(a) provide the applicant with copies of any submissions made in response to the invitation; and

(b) allow the applicant a reasonable opportunity to respond to the submissions.

135 Matters to be considered

In considering the application, the assessor or assessors must have regard to the following:

(a) the expected capacity of the applicant to comply with:

(i) the registration requirements; and

(ii) any other requirements under any law of the Territory that relate to the proposal;

(b) the expected effects of the proposal on the educational system in the Territory and on the existing schools in the area in which the school is to be located;

(c) the level of community support for the proposal and public comments on, or criticisms of, the proposal;

(d) the expected impact of the proposal on government infrastructure, services and resources;

(e) a matter relating to any of paragraphs (a) to (d), or any other matter, prescribed by regulation.

Division 5 Registrar's power in relation to application

137 Registrar's decision

(1) The registrar must, within 9 months after giving written notice under section 131(3) of the receipt of an application for the registration of a non-Government school:

(a) approve the application by registering the school; or

(b) refuse the application.

(2) The registrar must do so having regard to:

(a) the matters mentioned in section 135; and

(b) the recommendations of the assessor or assessors in relation to the application; and

(c) any other matters the registrar considers relevant to the application.

(3) As soon as practicable after making a decision under subsection (1)(a), the registrar must give written notice of the decision to the applicant.

(3A) As soon as practicable after making a decision under subsection (1)(b), the registrar must give a decision notice to the applicant.

(4) On the registration of a non-Government school, the registrar must issue a certificate of registration for the school.

(5) The certificate of registration must contain the information that the registrar considers appropriate.

138 Imposition of conditions of registration

In registering a non-Government school, the registrar must:

(a) impose conditions specifying:

(i) the education programs the school is authorised to provide; and

(ii) the year levels of the school's students; and

(b) impose other conditions the registrar considers appropriate.

139 Lapse of registration

The registration of a non-Government school lapses if the school does not commence operation within 2 years after the registration certificate is issued.

Division 6 Financial assistance and other support

140 Provision of financial assistance and other support

(1) Subject to the Minister's directions and to subsection (3), the CEO may:

(a) provide government financial assistance to, or withdraw government financial assistance from, a registered non-Government school; and

(b) provide other support to, or withdraw that support from, the school.

Example for subsection (1)(b)

The CEO may allow the school to use a building that is under the control of the Agency.

(2) Government financial assistance and other support may be provided on the conditions specified by the CEO.

(3) Government financial assistance may be provided for a non-Government school only if it is:

(a) an entity registered under the *Australian Charities and Not-for-profits Commission Act 2012* (Cth); or

(b) an entity registered under a law in force in the Territory that is in the nature of an entity mentioned in paragraph (a).

(4) The CEO may, at any time, require the governing body of a non-Government school to report on its use of any government financial assistance or other support.

(5) For subsection (1)(a), government financial assistance may be subject to a funding agreement providing for the following:

(a) the details and purpose of the financial assistance;

(b) any conditions on which the financial assistance is being provided.

Division 7 Operation of registered non-Government schools

141 Compliance with registration requirements and conditions of registration

(1) The governing body of a registered non-Government school commits an offence if:

(a) any registration requirement for the school is not complied with; or

(b) any condition imposed under section 138 is not complied with.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

142 Student records and reports

(1) The governing body of a registered non-Government school must ensure records containing information of a kind prescribed by regulation, about each student enrolled at the school, are kept at the school.

Maximum penalty: 100 penalty units.

(2) The governing body of a registered non-Government school must ensure that a report about each student is given to a parent of the student:

(a) for each semester – no later than 4 weeks after the end of the semester; and

(b) if a regulation prescribes an additional report – in accordance with the Regulations.

Maximum penalty: 100 penalty units.

(3) The report must include:

(a) for a report mentioned in subsection (2)(a):

(i) details of the attendance and educational performance of the student during the semester; and

(ii) any further information required by the registrar or prescribed by regulation; and

(b) for a report mentioned in subsection (2)(b) – the information prescribed by regulation.

(4) An offence against subsection (1) or (2) is an offence of strict liability.

143 Financial records and annual financial statements

(1) The governing body of a registered non-Government school must:

(a) ensure that proper financial records are kept for the school; and

(b) give an annual financial statement for the school to the registrar in accordance with subsection (3) for each calendar year, or part of a calendar year, during which the school is registered.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) The annual financial statement for a calendar year:

(a) must include details about the income and expenditure of the school during that year, the school's financial position at the end of that year and any other financial information about the school as required by the registrar; and

(b) must comply with:

(i) any requirements applicable to the governing body under the law governing its incorporation (including the *Corporations Act 2001* (Cth) for a company incorporated under that Act) in relation to the preparation and auditing of such a statement; or

(ii) if there are no such requirements – requirements of the Australian Accounting Standards as specified by the registrar; and

(c) must be given to the registrar within:

(i) 4 months after the end of that year; or

(ii) a longer period allowed by the registrar.

144 Annual report

(1) The governing body of a registered non-Government school must give an annual report for the school to the registrar in accordance with subsections (3) and (4) for each calendar year, or part of a calendar year, during which the school is registered.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) The report must include:

(a) the following information in relation to the calendar year, or the part of the calendar year, to which it relates:

(i) an assessment of the school's performance and its relationship with the parents of its students and the community;

(ii) details of events concerning the school that the governing body regards as major (including, for example, events involving work health and safety issues);

(iii) the use of any government financial assistance or other support received by the school;

(iv) details of the conditions of the school's buildings, structures and other facilities and any plans for new buildings, structures and other facilities for the school;

(v) a list of the staff at the school; and

(b) a matter relating to paragraph (a), or any other matter, prescribed by regulation.

(4) The governing body must give the annual report to the registrar within:

(a) 4 months after the end of that year; or

(b) a longer period allowed by the registrar.

145 Annual self-assessment

(1) The governing body of a registered non-Government school must:

(a) establish and maintain a system of self-assessment approved by the registrar for the purpose of monitoring:

(i) the school's compliance with the registration requirements and the conditions of its registration; and

(ii) the success of the school's education programs; and

(b) ensure that a self-assessment is conducted for the school in accordance with the approved system once during each calendar year.

(2) The governing body of a registered non-Government school commits an offence if the body fails to give the registrar the results of a self-assessment before the end of the calendar year in which the self-assessment is conducted.

Maximum penalty: 100 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) The governing body of a non-Government school must, when giving the registrar the results of a self-assessment, inform the registrar if there is any risk to the school's long-term viability.

145A Notification of certain matters

(1) The governing body of a registered non-Government school must notify the registrar, in writing, as soon as practicable after either of the following occurs:

(a) any change to the hours and days of operation of the school;

(b) any incident that requires the school to close or reduces the number of students attending the school for a period.

Example for subsection (1)(b)

A flood or fire that requires a school to close its premises (or part of its premises) while repairs are undertaken.

(2) The governing body of a registered non-Government school commits an offence if the body fails to notify the registrar under subsection (1).

Maximum penalty: 100 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

145B Complaints management

(1) The governing body of a registered non-Government school must establish and maintain a policy for managing complaints made in relation to the school.

(2) The complaints policy must provide for the timely management of complaints and for procedural fairness in the management of complaints.

(3) Subject to subsection (4), if the registrar receives a complaint in relation to a registered non-Government school, the registrar must refer the complaint to:

(a) the governing body of the school; or

(b) the principal of the school.

Note for subsection (3)

The registrar may have additional obligations under the Care and Protection of Children Act 2007 in relation to a complaint.

(4) The registrar may authorise a special investigation into a registered non-Government school without referring the complaint under subsection (3) if the registrar is of the opinion that:

(a) a serious incident has occurred or is occurring that may impact on the safety, health or wellbeing of a student at the school; or

(b) a breach of the registration requirements has occurred or is occurring that may impact on the safety, health or wellbeing of a student at the school.

Division 7A Suspension, exclusion and expulsion

145C Suspension by principal

(1) This section applies if the principal of a registered non-Government school is satisfied that a student who is enrolled in the school should be suspended from attending the school because the student's presence is likely to constitute a risk of physical or psychological harm to other persons at the school.

Example for subsection (1)

The student has repeatedly engaged in behaviour that negatively impacts on the psychological welfare of other students at the school.

(2) The principal may, by written notice given to the student, suspend the student from attending the school either wholly or to the extent specified in the notice.

(3) A notice of suspension may include any conditions the principal considers appropriate with which the student must comply.

(4) If the suspended student is a child not living independently, the principal must, as soon as practicable, give a copy of the notice of suspension and a report of the circumstances to a parent who has daily care and control of the student.

(5) The suspension has effect for the period, not exceeding 20 school days, specified in the notice of suspension.

145D Exclusion by principal

(1) This section applies if a student who is enrolled in a registered non-Government school is charged with an offence, whether committed in or outside the Territory, punishable by a term of imprisonment of more than 2 years.

(2) The principal of the school may, as specified in a written notice given to the student, exclude the student, until the charge is determined by a court or otherwise withdrawn, from:

(a) the whole or part of any land, premises or facility occupied or used by the school; or

(b) participation in any program or activity conducted by or on behalf of the school.

(3) The principal may give a notice under subsection (2) only if of the opinion that it is necessary to do so because the student's presence is likely to constitute an unacceptable risk of physical or psychological harm to other persons at the school.

(4) The principal must, as soon as practicable after excluding a student, give a copy of the notice of exclusion to:

(a) the registrar; and

(b) if the excluded student is a child not living independently – a parent who has daily care and control of the student.

(5) A notice given to a student under subsection (2) or a parent under subsection (4) must also set out the right the student or parent has to apply for a review of the decision to exclude the student.

Note for subsection (5)

Section 145G requires each registered non-Government school to have a policy that provides for reviews of decisions under this section.

145E Expulsion by principal

(1) If the principal considers it necessary in the interests of other persons present at a registered non-Government school, the principal may, by written notice given to a student enrolled in the school, expel the student from the school.

(2) The principal must, as soon as practicable after expelling a student, give a copy of the notice of expulsion to:

(a) the registrar; and

(b) if the excluded student is a child not living independently – a parent who has daily care and control of the student.

(3) A notice given to a student under subsection (1) or a parent under subsection (2) must also set out the right the student or parent has to apply for a review of the decision to expel the student.

Note for subsection (3)

Section 145G requires each registered non-Government school to have a policy that provides for reviews of decisions under this section.

145F Management of behaviour

(1) The governing body of a registered non-Government school must have a policy relating to the management of the behaviour of students enrolled in the school.

(2) In making a decision under this Division, the principal must have regard to the following matters:

(a) the age of the student;

(b) the developmental stage of the student;

(c) whether the student is a child with special learning needs;

(d) the mental health and wellbeing of the student;

(e) the physical health and wellbeing of the student;

(f) any relevant religious or cultural considerations;

(g) the student's home environment and the arrangements in place for the student's care;

(h) the policy mentioned in subsection (1).

145G Review policy

(1) The governing body of a registered non-Government school must have a policy in place to provide for the review of the following decisions:

(a) a decision to exclude a student under section 145D;

(b) a decision to expel a student under section 145E.

(2) The policy must provide for:

(a) reviews of the merits of decisions; and

(b) reviews to be carried out in a timely manner and in accordance with the rules of procedural fairness.

Division 8 Assessment and investigation

146 Initial assessment for compliance with registration requirements

(1) An initial assessment of a registered non-Government school must be carried out at any time within 6 months to 2 years after the school is registered under section 137(1)(a).

(2) The initial assessment is to assess the school's compliance with the registration requirements.

(3) The registrar must direct one or more assessors to carry out the initial assessment.

147 Routine assessment and special investigation

(1) The registrar must establish a schedule of routine assessment to ensure that non-Government schools are complying with the registration requirements and conditions of their registration.

(2) A routine assessment must be carried out in accordance with the schedule for each non-Government school:

(a) 5 years after the date on which the initial assessment for the school was carried out; and

(b) 5 years after the date on which the most recent assessment of the school was carried out under this section.

(3) The registrar may, at any time, authorise a special investigation into a suspected non-compliance with:

(a) a registration requirement for a non-Government school; or

(b) a condition of the registration of the school.

(4) The registrar must direct one or more assessors to carry out the routine assessment or special investigation.

148 Assessor's powers

(1) An assessor may enter a non-Government school for the purposes of carrying out a review of an application made under section 133 or 154, an initial assessment, a routine assessment or a special investigation at any time during a school day or, if the school is not operating, on a day on which the school would ordinarily be providing, or is planning to provide, instruction for students.

(2) An assessor must, at least 5 business days before entering the school under subsection (1), give the governing body of the school written notice of the proposed entry.

(3) However, the assessor may enter a non-Government school for a special investigation without any written notice under subsection (2) if the assessor is of the opinion that giving notice might jeopardise the investigation.

(4) A member of the staff of a non-Government school must, at the request of an assessor:

(a) give the assessor any information that the assessor reasonably requires for the review, assessment or investigation; and

(b) produce documents relevant to the review, assessment or investigation; and

(c) provide any other assistance that the assessor reasonably requires for the review, assessment or investigation.

(5) A person commits an offence if:

(a) an assessor makes a request under subsection (4); and

(b) the person knows the person making the request is an assessor; and

(c) the person fails to comply with the request.

Maximum penalty: 20 penalty units.

(6) Strict liability applies to subsection (5)(a) and (c).

149 Assessor's report

(1) An assessor or assessors must, after completing a review of an application made under section 133 or 154, an initial assessment, a routine assessment or a special investigation for a non-Government school:

(a) prepare a draft report on the review, assessment or investigation; and

(b) give a copy of the draft report to the governing body of the school; and

(c) allow the governing body a reasonable opportunity to make representations on the draft report within a reasonable period specified in a notice given to the governing body together with the copy of the draft report.

(2) The assessor or assessors must, having regard to any representations made by the governing body of the school within the specified period, prepare a final report on the review, assessment or investigation.

(3) The assessor or assessors must give the final report to the registrar:

(a) for a review or assessment – within 1 month (or a longer period allowed by the registrar) after completing the review or assessment; and

(b) for a special investigation – within 7 days (or a longer period allowed by the registrar) after completing the investigation.

(4) The registrar must, as soon as practicable after receiving the final report, give a copy of the report to the governing body of the school.

150 Identity card

(1) The registrar must give an assessor an identity card stating the person's name and that the person is an assessor.

(2) The identity card must:

(a) show a recent photograph of the assessor; and

(b) show the card's date of issue and expiry; and

(c) be signed by the assessor.

(3) This section does not prevent the issue of a single identity card to a person for this and another Act.

(4) If an assessor, in the performance of a function under this Act, requires a person to do a thing and the person asks the assessor to produce the assessor's identity card:

(a) the assessor is authorised to perform the function only after producing the card; and

(b) the person is not required to do the thing until the assessor produces the card.

151 Return of identity card

(1) A person who ceases to be an assessor must return the person's identity card to the registrar within 21 days after the cessation.

Maximum penalty: 20 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the person has a reasonable excuse.

Division 9 Variation, suspension or cancellation of registration

Subdivision 1 Variation, suspension or cancellation of registration by agreement

153 Variation, suspension or cancellation of registration by agreement

The registrar may, by agreement with the governing body of a non-Government school and with effect from a date agreed with the governing body:

(a) vary the registration of the school; or

(b) suspend the registration of the school; or

(c) cancel the registration of the school.

Subdivision 2 Variation of registration by application

154 Variation of registration by application

(1) The governing body of a non-Government school may, by written application to the registrar accompanied by the prescribed fee, request the registrar to vary the registration of the school.

(2) The registrar may refer the application to one or more assessors if the registrar considers it is of sufficient significance to warrant the reference (including if the application seeks to expand the school's operation).

(3) The following provisions of this Part (the ***applied provisions***) apply to the application with the changes mentioned in subsection (4):

(a) Divisions 3 and 5;

(b) if the registrar refers the application to one or more assessors – Division 4.

(4) The changes to the applied provisions are as follows:

(a) section 129(3) has effect as if it required the application to be given to the registrar at least 1 year before the variation is to take effect;

(b) section 129(5) has effect as if:

(i) it required the application to set out details of the variation and when and how the variation is to take effect; and

(ii) it required the application to set out the extent to which the matter mentioned in that subsection would be affected by the variation;

(c) a reference in the applied provisions to an application for the registration of a non-Government school is taken to be a reference to an application for the variation;

(d) section 135 is taken to have effect as if it required the assessor or assessors, in reviewing the application, to have regard to the matters set out in that section only to the extent to which the matters would be affected by the variation;

(e) section 137 has effect as if:

(i) the reference to registering the school in section 137(1)(a) were a reference to varying the registration of the school; and

(ii) the registrar may, under section 137(4) and (5), vary the certificate of registration of the school as the registrar considers appropriate (including by issuing a new certificate of registration);

(f) section 138 has effect as if it provided that the registrar may impose conditions on the variation as the registrar considers appropriate;

(g) section 139 has effect as if it provided that an approval of the application ceases to have effect if the variation does not take effect within 2 years after the date of the approval.

Subdivision 3 Variation, suspension or cancellation of registration for breach

155 Variation, suspension or cancellation for breach of registration requirement or condition of registration

Subject to this Division, if the registrar is satisfied that a breach of a registration requirement or a condition of the registration has occurred in relation to a registered non-Government school, the registrar may:

(a) vary the registration of the school; or

(b) suspend the registration of the school for a specified period; or

(c) cancel the registration of the school.

155A Compliance notice

If the registrar is considering taking action under section 155, the registrar must give the governing body of the registered non-Government school a notice (a ***compliance notice***) stating:

(a) that a breach of a registration requirement or a condition of the registration of the school has occurred; and

(b) the action the body must take to remedy the breach and the date by which the action must be taken.

155B Show cause notice

(1) If a governing body given a compliance notice under section 155A does not take the action specified in the notice, the registrar may give the body a notice stating:

(a) the proposed action and the grounds for taking the proposed action; and

(b) the reasons for the proposed action; and

(c) that the body may, within 30 days after the notice is given, give the registrar a written response in relation to the proposed action.

(2) After considering any written response from the governing body received within the time allowed by subsection (1)(c), the registrar may:

(a) give the body a second compliance notice (a ***second compliance notice***) stating:

(i) that a breach of a registration requirement or a condition of the registration has occurred; and

(ii) the action the body must take to remedy the breach and the date by which the action must be taken; or

(b) make a decision under section 155 and give the body a decision notice for the decision; or

(c) decide not to take an action under section 155 and notify the body of this decision.

155C Second compliance notice

If a governing body given a second compliance notice under section 155B(2) does not take the action specified in the second compliance notice, the registrar may:

(a) make a decision under section 155 and give the body a decision notice for the decision; or

(b) decide not to take an action under section 155 and notify the body of this decision.

155D Suspension without compliance notice

(1) The registrar may suspend the registration of a non-Government school without giving the governing body of the school a compliance notice if the registrar is satisfied that any of the following has occurred:

(a) the school is responsible for a serious incident that may impact on the safety, health or wellbeing of a student at the school;

(b) the school has breached a registration requirement or a condition of its registration in a manner that may give rise to an immediate risk to the safety, health or wellbeing of a student at the school;

(c) the school has a history of failing to comply with the registration requirements or conditions of the registration.

(2) The registrar must give the body a decision notice for a decision under subsection (1).

155E Notice to parents of variation, suspension or cancellation

The registrar may, if the registration of a non-Government school has been varied, suspended or cancelled under section 155 or 155D, direct the governing body of the school to give written notice of the variation, suspension or cancellation and its effect to the parents of students at the school.

Division 10 Review

156 Reviewable decision

(1) Each of the following decisions by the registrar is a ***reviewable decision***:

(a) a decision refusing an application for the registration of a non-Government school under section 137(1)(b);

(b) a decision refusing an application for the variation of the registration of a non-Government school under section 154;

(c) a decision to vary, suspend or cancel the registration of a non-Government school under section 155;

(d) a decision to suspend the registration of a non-Government school under section 155D.

(2) The following may, in writing, apply to the registrar for the review of a reviewable decision:

(a) for a decision mentioned in subsection (1)(a) or (b) – the person making the application mentioned in that section;

(b) otherwise – the governing body of the school.

(3) An application for a review:

(a) may only be made within 28 days after the date of the reviewable decision to which the application relates; and

(b) must set out in detail the grounds for the application.

156A Assessor to review and make recommendation on reviewable decision

(1) The registrar must direct an assessor who was not involved in the making of the reviewable decision to review the decision.

Example for subsection (1)

An assessor is involved in the making of a decision to refuse an application for the registration of a non-Government school if the assessor reviewed the application under section 133.

(2) An assessor directed to review the decision under subsection (1) must have the knowledge and skills necessary to conduct the review.

(3) A review under this section is a review of the merits of the decision.

(4) In conducting a review of a decision, an assessor must comply with the rules of procedural fairness.

(5) The assessor, within 1 month after conducting a review of decision, must give a report to the registrar in relation to the review and recommend that the registrar do one of the following:

(a) confirm the decision;

(b) vary the decision;

(c) set aside the decision and substitute a different decision.

156B Decision on review

(1) After considering an assessor's report and recommendation under section 156A(5), the registrar must do one of the following:

(a) confirm the reviewable decision;

(b) vary the reviewable decision;

(c) set aside the reviewable decision and substitute a different decision.

(2) The registrar must give the applicant for the review a decision notice for the decision.

Division 11 Other matters

157 Register of non-Government schools

(1) The registrar must maintain a register of non-Government schools registered under this Part.

(2) The register must be accessible on the Agency's website.

(3) The register must contain the information required by the Regulations and other information that the registrar considers appropriate.

(4) If requested to do so, the registrar must provide a copy of, or an extract from, an entry in the register for the prescribed fee.

158 Confidentiality of information

(1) A person commits an offence if the person:

(a) obtains information in the course of performing functions connected with the administration of this Part; and

(b) intentionally engages in conduct that results in the disclosure of the information.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(a).

(3) Subsection (1) does not apply if:

(a) the person discloses the information:

(i) for the administration of this Part; or

(ia) under section 170A(1); or

(ii) with the consent of the person to whom the information relates; or

(iii) for legal proceedings arising out of the operation of this Part; or

(b) the information is otherwise available to the public.

Note for subsection (3)

In addition to the circumstances mentioned in subsection (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

159 Misleading information

(1) An applicant under section 129(1) or 154(1) commits an offence if:

(a) the applicant intentionally gives information to another person in or in connection with the application; and

(b) the other person is authorised by this Part to require the provision of that information; and

(c) the applicant knows the information is misleading; and

(d) the applicant knows the other person is acting in an official capacity.

Maximum penalty: 50 penalty units.

(2) An applicant under section 129(1) or 154(1) commits an offence if:

(a) the applicant intentionally gives a document to another person in or in connection with the application; and

(b) the other person is authorised by this Part to require the provision of that document; and

(c) the applicant knows the document contains misleading information; and

(d) the applicant knows the other person is acting in an official capacity.

Maximum penalty: 50 penalty units.

(3) Strict liability applies to subsections (1)(b) and (2)(b).

(4) Subsection (2) does not apply if the applicant, when giving the document:

(a) draws the misleading aspect of the document to the other person's attention; and

(b) to the extent to which the applicant can reasonably do so – gives the other person the information necessary to remedy the misleading aspect of the document.

(5) In this section:

acting in an official capacity, in relation to a person authorised by this Part to require the provision of information or a document, means the person is exercising powers or performing functions under, or otherwise related to the administration of, this Part.

160 Display of certificate of registration

(1) The governing body of a registered non-Government school must ensure that the certificate of registration for the school is displayed in a prominent position on the school premises.

Maximum penalty: 5 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

161 Information sharing – data about enrolments and attendance

(1) The CEO may request the following information from a governing body of a non-Government school:

(a) data recorded in the enrolment and attendance register at one or more schools governed by the governing body;

(b) specific data related to enrolments or attendances of students at one or more schools governed by the governing body during a specified period or at a specified time.

(2) The governing body must disclose the information to the CEO.

(3) This section does not limit any power or obligation under another Act to give information.

Part 8 Miscellaneous matters

Division 1 Corporal punishment

162 Corporal punishment prohibited

(1) This section applies to every person who is:

(a) a member of the staff of a school; or

(b) engaged to teach or support teaching at a school.

(2) The person must not administer any form of corporal punishment to a student enrolled in the school.

(3) Despite anything to the contrary in section 11 of the Criminal Code, a person mentioned in subsection (1) does not have, and cannot be given, any delegated power to apply force to a child for the purposes of discipline, management or control.

Division 2 Offences and evidentiary matters

163 Employment of children

(1) A person commits an offence if:

(a) the person intentionally employs, or permits to be employed, a child; and

(b) the person is reckless as to whether the child is a child of compulsory school age who has not completed year 10 of secondary education; and

(c) the child is employed during a time of a school day when the child is required to attend school.

Maximum penalty: For a first offence – 50 penalty units or imprisonment for 3 months.

For a second or subsequent offence – 100 penalty units or imprisonment for 6 months.

(2) Strict liability applies to subsection (1)(c).

(3) Subsection (1) does not apply if:

(a) the employment is in an approved apprenticeship or approved traineeship under the *Training and Skills Development Act 2016* that is being undertaken in conjunction with education or training provided at a school; or

(b) an exemption under subsection (6) applies in relation to the child.

(4) A person commits an offence if the person:

(a) intentionally employs, or permits to be employed, a child; and

(b) is reckless as to whether the child is a child of compulsory school age who has not completed year 10 of secondary education; and

(c) is reckless as to whether the nature of the employment is such that it is likely to cause the child to be:

(i) unfit or unable to attend school at the times that the child is required to attend school; or

(ii) unfit or unable to understand instruction provided for the child when attending school.

Maximum penalty: For a first offence – 50 penalty units or imprisonment for 3 months.

For a second or subsequent offence – 100 penalty units or imprisonment for 6 months.

(5) Subsection (4) does not apply if an exemption under subsection (6) applies in relation to the child.

(6) The Minister may grant an exemption in relation to a child from all or any of the provisions of subsection (1) or (4) if satisfied that it is appropriate to do so because of special circumstances.

164 Obstruction of authorised officer

(1) A person commits an offence if:

(a) the person intentionally obstructs another person; and

(b) the other person is an authorised officer; and

(c) the person knows the authorised officer is acting in an official capacity.

Maximum penalty: For a first offence committed by:

(a) an adult – 25 penalty units; or

(b) a child – 2.5 penalty units.

For a second or subsequent offence committed by:

(a) an adult – 30 penalty units; or

(b) a child – 3 penalty units.

(2) Strict liability applies to subsection (1)(b).

(3) In this section:

obstruct, includes hinder and resist.

165 Giving misleading information to authorised officer

(1) A person commits an offence if:

(a) the person intentionally gives information to another person; and

(b) the other person is an authorised officer; and

(c) the person knows the information is misleading; and

(d) the person knows the authorised officer is acting in an official capacity.

Maximum penalty: For a first offence committed by:

(a) an adult – 25 penalty units; or

(b) a child – 2.5 penalty units.

For a second or subsequent offence committed by:

(a) an adult – 30 penalty units; or

(b) a child – 3 penalty units.

(2) A person commits an offence if:

(a) the person intentionally gives a document to another person; and

(b) the other person is an authorised officer; and

(c) the person knows the document contains misleading information; and

(d) the person knows the authorised officer is acting in an official capacity.

Maximum penalty: For a first offence committed by:

(a) an adult – 25 penalty units; or

(b) a child – 2.5 penalty units.

For a second or subsequent offence committed by:

(a) an adult – 30 penalty units; or

(b) a child – 3 penalty units.

(3) Strict liability applies to subsections (1)(b) and (2)(b).

(4) Subsection (2) does not apply if the person, when giving the document:

(a) draws the misleading aspect of the document to the authorised officer's attention; and

(b) to the extent to which the person can reasonably do so – gives the authorised officer the information necessary to remedy the misleading aspect of the document.

(5) In this section:

acting in an official capacity, in relation to an authorised officer, means the officer is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

166 Evidentiary certificates

(1) In a legal proceeding, a certificate purporting to be signed by the principal of a school stating that the student named in it did or did not attend that school on the date or dates specified in the certificate is evidence of the matters specified.

(2) In a legal proceeding, a certificate purporting to be signed by an authorised person and stating any of the following matters is evidence of the matter:

(a) a specified person is a parent of a specified child;

(b) a specified person has daily care and control of a specified child;

(c) a specified child is of, above, or under, a specified age or was, at a specified time, of, above or under a specified age;

(d) at a specified time a specified child was or was not enrolled in a specified school;

(e) a specified person is or was, at a specified time, the principal of a specified school;

(f) at a specified time instruction was provided for a specified student at a specified school.

Division 3 Administrative matters

166A School attendance officers

(1) The CEO may, in writing, appoint a person to be a school attendance officer.

(2) A school attendance officer has the following functions:

(a) to monitor and enforce compliance with the provisions of this Act relating to school attendance;

(b) to provide information and advice on matters relating to school attendance;

(c) to conduct community education and awareness programs relating to school attendance;

(d) to perform any other function conferred on school attendance officers under this Act.

(3) A school attendance officer has the powers necessary to perform the officer's functions under this Act.

167 Authorised persons

(1) Each of the following is an ***authorised person***:

(a) a police officer;

(b) a school attendance officer;

(c) a person appointed under subsection (2).

(2) The CEO may appoint a person to be an authorised person for this Act.

168 Identity card

(1) The CEO must give an authorised person (other than a police officer) an identity card stating the person's name and that the person is an authorised person.

(2) The identity card must:

(a) show a recent photograph of the authorised person; and

(b) show the card's date of issue and expiry; and

(c) be signed by the authorised person.

(3) This section does not prevent the issue of a single identity card to a person for this and another Act.

168A Production of identity card

An authorised person (other than a police officer in uniform) exercising a power or performing a function under this Act in relation to a person must, if exercising the power or performing the function in the presence of the person, produce for the person's inspection:

(a) if the authorised person is a police officer – the officer's police identification; or

(b) otherwise – the authorised person's identity card.

169 Return of identity card

(1) A person (other than a police officer) who ceases to be an authorised person must return the person's identity card to the CEO within 21 days after the cessation.

Maximum penalty: 20 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

170 Information sharing – information for Part 4

(1) Despite Part 5 of the *Information Act 2002*, a person or body may disclose to the CEO any relevant information:

(a) to assist the CEO to ascertain:

(i) the age, identity or whereabouts of a child whose usual place of residence is in the Territory and who is not enrolled in a school or participating in an eligible option as required under Part 4, Division 1; or

(ii) the reasons why the child is not enrolled in a school or participating in an eligible option as required under Part 4, Division 1; or

(b) that might otherwise assist the CEO in the administration of Part 4.

(2) The relevant information may be disclosed:

(a) at the request of the CEO or on the discloser's own initiative; and

(b) if the discloser is an individual – anonymously.

(3) The CEO, in a request for relevant information, may include information about a child or a child's family that may assist the person or body to provide the requested information.

(4) An individual who discloses relevant information under this section in good faith, in relation to the disclosure:

(a) is not criminally or civilly liable; and

(b) is not subject to disciplinary proceedings; and

(c) does not commit a breach of professional ethics.

(5) The identity of an individual who discloses relevant information must not be disclosed unless the CEO considers disclosure of the identity is warranted because of special circumstances.

(6) The CEO may also disclose relevant information, or other information known to the CEO, to another Agency or body (including an Agency or body from another jurisdiction) if:

(a) the Agency or body has responsibilities in relation to children (whether specifically or generally); and

(b) the CEO considers that the disclosure is appropriate to assist the Agency or body in meeting those responsibilities.

(7) In this section:

another jurisdiction means the Commonwealth, a State or another Territory.

body includes the Police Force of the Northern Territory.

170A Information sharing – principals

(1) Despite Part 5 of the *Information Act 2002*, the principal of a school may disclose the following information about a student who attended the school to the principal of any other school to which the student subsequently transfers or proposes to transfer:

(a) information to assist with the transfer of the student to the other school;

(b) information the principal considers relevant to ensure the safety and wellbeing of the student or other students attending the other school.

Note for subsection (1)

The principal of a school attended by a student may disclose information under this subsection whether or not the student transfers to the subsequent school immediately after attending the first-mentioned school.

(2) An individual who discloses information under this section in good faith, in relation to the disclosure:

(a) is not criminally or civilly liable; and

(b) is not subject to disciplinary proceedings; and

(c) does not commit a breach of professional ethics.

(3) This section does not limit any power or obligation under another Act to give information.

Division 4 Enforcement powers

171 Information notice

(2) If the CEO or a school attendance officer believes on reasonable grounds that section 39, 40, 42 or 70 is not being complied with in relation to a child, the CEO or officer may give a written notice (an ***information notice***) requiring specified information to one of the following:

(a) a parent who has daily care and control of the child;

(b) if the child is living independently – the child.

(3) The information notice must:

(a) specify that it is an information notice under this section; and

(b) indicate the provision or provisions of this Act that the CEO or school attendance officer believes is or are not being complied with; and

(c) specify the information required; and

(d) specify what must be done by the person given the notice in order to comply with it; and

(e) specify the period for complying with the notice; and

(f) contain a statement to the effect that failure to comply with the notice is an offence.

(4) The information notice may include any further information that the CEO or school attendance officer considers appropriate.

(5) A parent commits an offence if:

(a) an information notice is given to the parent under subsection (2)(a); and

(b) the parent fails to comply with the notice.

Maximum penalty: For a first offence – 15 penalty units.

For a second or subsequent offence – 20 penalty units.

(6) A child commits an offence if:

(a) an information notice is given to the child under subsection (2)(b); and

(b) the child fails to comply with the notice.

Maximum penalty: For a first offence – 1.5 penalty units.

For a second or subsequent offence – 2 penalty units.

(7) An offence against subsection (5) or (6) is an offence of strict liability.

(8) It is a defence to a prosecution for an offence against subsection (5) or (6) if the defendant has a reasonable excuse.

172 Compliance notice

(2) If the CEO or a school attendance officer believes on reasonable grounds that section 39, 40, 42 or 70 is not being complied with in relation to a child, the CEO or officer may give a written notice (a ***compliance notice***) to one of the following:

(a) a parent who has daily care and control of the child;

(b) if the child is living independently – the child.

(2A) A compliance notice may be given whether or not an information notice under section 171(2) has been given in the circumstances.

(3) The compliance notice must:

(a) specify that it is a compliance notice under this section; and

(b) include a brief description of the failure to comply with this Act for which the notice is given; and

(c) specify what must be done by the person given the notice in order to comply with it; and

(d) specify the period for complying with the notice; and

(e) contain a statement to the effect that failure to comply with the notice is an offence.

(4) The compliance notice may include any further information that the CEO or school attendance officer considers appropriate.

(5) If the CEO or school attendance officer considers it appropriate to do so, the CEO or officer may extend the period mentioned in subsection (3)(d) on the CEO's or officer's own initiative or on the request of the person given the compliance notice.

(6) However, the period cannot be extended if the period for compliance has ended.

(7) A parent commits an offence if:

(a) a compliance notice is given to the parent under subsection (2)(a); and

(b) the parent fails to comply with the notice.

Maximum penalty: For a first offence – 15 penalty units.

For a second or subsequent offence – 20 penalty units.

(8) A child commits an offence if:

(a) a compliance notice is given to the child under subsection (2)(b); and

(b) the child fails to comply with the notice.

Maximum penalty: For a first offence – 1.5 penalty units.

For a second or subsequent offence – 2 penalty units.

(9) An offence against subsection (7) or (8) is an offence of strict liability.

(10) It is a defence to a prosecution for an offence against subsection (7) or (8) if the defendant has a reasonable excuse.

(11) If the CEO or school attendance officer is satisfied that the compliance notice has been complied with, the CEO or officer must revoke the notice by written notice given to the parent or child, as the case requires.

173 Compulsory conference

(1) If the CEO or a school attendance officer believes on reasonable grounds that a provision of Part 4 (other than Division 3) is not being complied with in relation to a child, the CEO or officer may give a direction under subsection (2).

(2) The CEO or school attendance officer may, by written notice, direct any of the following persons to attend a compulsory conference addressing the issues the CEO or officer considers appropriate to resolve in order to achieve compliance with the provision:

(a) a parent of the child concerned;

(b) the child concerned;

(c) any other person the CEO or officer considers appropriate.

Examples for subsection (2)(c)

A social worker, child psychologist, school principal, church representative or traditional elder.

(3) The child may attend the conference without being accompanied by a parent in any of the following circumstances:

(a) the child is living independently;

(b) the child requests that parents, or a particular parent, not be present and the CEO or school attendance officer agrees to the request;

(c) the CEO or officer considers the conference is more likely to be successful without the presence of parents or a particular parent.

(4) If a child attends the conference without being accompanied by a parent because of circumstances mentioned in subsection (3), any direction to a parent to attend is taken to be withdrawn.

(5) If the child requests the presence of another person (a ***support person***) at the conference, the CEO or school attendance officer may agree to the request if the CEO or officer considers the conference is more likely to be successful if the support person is present.

(6) The conference must be conducted by a departmental officer.

(7) The purpose of the conference is to ensure that the child receives education or training in accordance with this Act.

(8) For achieving its purpose, in the conduct of the conference the parties may do any of the following:

(a) seek to identify and resolve issues in dispute in relation to education or training for the child;

(b) seek to identify any services that can be provided to the child or the child's family to facilitate education or training for the child;

(c) make recommendations to the CEO or school attendance officer that the conference participants consider appropriate;

(d) formulate undertakings for a family responsibility agreement under Chapter 2, Part 2.1A of the *Care and Protection of Children Act 2007*..

(9) Despite Part 5 of the *Information Act 2002*, participants in the conference, or other persons for the purposes of the conference, may disclose to each other information about the child and the child's family that may reasonably assist in achieving the purpose of the conference.

(10) Evidence of things said or admissions made in the conference, or in documents prepared for the conference, other than any written undertakings prepared during or following the conference, is not admissible in any court proceeding.

(11) A parent commits an offence if:

(a) the parent has been directed under subsection (2)(a) to attend a conference; and

(b) the parent fails to comply with the direction.

Maximum penalty: For a first offence – 15 penalty units.

For a second or subsequent offence – 20 penalty units.

(12) A child commits an offence if:

(a) the child has been directed under subsection (2)(b) to attend a conference; and

(b) the child fails to comply with the direction.

Maximum penalty: For a first offence – 1.5 penalty units.

For a second or subsequent offence – 2 penalty units.

(13) An offence against subsection (11) or (12) is an offence of strict liability.

(14) It is a defence to a prosecution for an offence against subsection (11) or (12) if the defendant has a reasonable excuse.

174 Truancy from school or eligible option

(1) This section applies if an authorised person:

(a) sees a child apparently of compulsory school age in a public place; and

(b) believes on reasonable grounds that the child should either be attending a school or participating in an eligible option.

(2) The authorised person may require the child to:

(a) give the child's name, the address of the child's usual place of residence and the child's age; and

(b) give the name of the school (if any) in which the child is enrolled or give details of any eligible option in which the child participates; and

(c) explain why the child is absent from school or is not participating in an eligible option.

(3) A child commits an offence if:

(a) a requirement is made of a child under subsection (2); and

(b) the child fails to comply with the requirement.

Maximum penalty: 1.5 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

(5) If it appears to the authorised person that the child is of compulsory school age and the authorised person is not satisfied with the explanation given by the child, the authorised person may do any of the following:

(a) accompany the child to the school in which the child is enrolled and place the child into the care of the school principal;

(b) accompany the child to the child's usual place of residence or another place the authorised person considers appropriate in the circumstances;

(c) take any action the authorised person considers appropriate in relation to any non-participation by the child in an eligible option.

175 Authorised person may require information about enrolment or eligible option

(1) An authorised person may, at any time between 8 am and 7 pm during any day, call at an address that has been given under section 174(2)(a) or otherwise obtained, and require any person apparently of or above the age of 14 years present at that address to state:

(a) the full names of all children of compulsory school age who usually reside at that address; and

(b) the names of the schools in which those children are enrolled, or other places at which any of the children participate in an eligible option.

(2) An adult commits an offence if:

(a) the adult is required under subsection (1) to give information; and

(b) the adult fails to comply with the requirement.

Maximum penalty: For a first offence – 15 penalty units.

For a second or subsequent offence – 20 penalty units.

(3) A child commits an offence if:

(a) the child is required under subsection (1) to give information; and

(b) the child fails to comply with the requirement.

Maximum penalty: For a first offence – 1.5 penalty units.

For a second or subsequent offence – 2 penalty units.

(4) An offence against subsection (2) or (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (2) or (3) if the defendant has a reasonable excuse.

176 Authorised person may direct enrolment of child

(1) If an authorised person believes on reasonable grounds that a child of compulsory school age whose usual place of residence is in the Territory is not enrolled in any school, the authorised person may, by written notice:

(a) direct a parent of the child to enrol the child in a school within 10 school days after the notice is given; or

(b) if the child is living independently – direct the child to enrol in a school within 10 school days after the notice is given.

(2) A parent commits an offence if:

(a) the parent is given a direction under subsection (1)(a); and

(b) the parent fails to comply with the direction.

Maximum penalty: For a first offence – 15 penalty units.

For a second or subsequent offence – 20 penalty units.

(3) A child commits an offence if:

(a) the child is given a direction under subsection (1)(b); and

(b) the child fails to comply with the direction.

Maximum penalty: For a first offence – 1.5 penalty units.

For a second or subsequent offence – 2 penalty units.

(4) An offence against subsection (2) or (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (2) or (3) if the defendant has a reasonable excuse.

(6) A person given a direction under subsection (1) must, if requested, give the authorised person evidence of the enrolment.

(7) If the authorised person considers it appropriate to do so, the authorised person may extend the period mentioned in subsection (1) by no more than 10 school days.

Division 5 Review by Tribunal

177 Meaning of *Tribunal reviewable decision*

Each of the following is a ***Tribunal reviewable decision***:

(a) a decision under section 46(3)(b) to refuse an application to provide home education;

(b) a decision under section 46(6)(e) to impose a condition on the approval of an application under section 46(1);

(c) a decision under section 49(3) to cancel an approval to provide home education;

(d) a decision under section 53(2)(b), (c) or (d) to refuse or vary special arrangements or order alternative arrangements in relation to a child with a disability;

(e) a decision under section 83(4)(a) to refuse, or partially grant, an application for an application for additional semesters;

(f) a decision under section 84(1) to cancel the enrolment of a student;

(g) a decision under section 92(6) to confirm a decision to exclude a student;

(h) a decision under section 93(6) not to revoke a decision to expel a student;

(i) a decision of the registrar under section 156B(1).

178 Meaning of *affected person*

A person is an ***affected person*** for a Tribunal reviewable decision mentioned in section 177 if the person is any of the following:

(a) for a decision mentioned in section 177(a) to (c) – a parent of the child to whom the decision relates;

(b) for a decision mentioned in section 177(d) – a parent of a child who has a disability and who is the subject of the decision;

(c) for a decision mentioned in section 177(e) or (f) – the student to whom the decision relates and, if the student is a child who is not living independently – a parent who has daily care and control of the child;

(d) for a decision mentioned in section 177(g) – the student whose exclusion is confirmed and, if the student is a child who is not living independently – a parent who has daily care and control of the child;

(e) for a decision mentioned in section 177(h) – the student whose expulsion is not revoked and, if the student is a child who is not living independently – a parent who has daily care and control of the child;

(f) for a decision mentioned in section 177(i) – the applicant for the review under section 156.

179 Jurisdiction of NT Civil and Administrative Tribunal

(1) An affected person for a Tribunal reviewable decision may apply to the Tribunal for a review of the decision.

(2) Despite anything to the contrary in the *Northern Territory Civil and Administrative Tribunal Act 2014*, an affected person under section 178(b) is not to bear any costs for making an application unless the Tribunal makes a costs order against the applicant because it considers the application to be frivolous or vexatious.

Division 6 Other matters

180 Recovery of amounts payable to the Commonwealth

(1) This section applies if a determination is made under section 110(1)(a) of the *Australian Education Act 2013* (Cth) that the Territory pay a specified amount to the Commonwealth as a result of:

(a) non-compliance or a breach by an entity to which the Territory paid an amount of financial assistance in accordance with that Act; or

(b) a payment mentioned in section 109(1), (2), (3)(a) or (4) of that Act that was paid to the Territory for payment to an entity in accordance with that Act.

(2) The Territory is taken to have made an arrangement with the entity that the amount determined under section 110(1)(a) of the *Australian Education Act 2013* (Cth):

(a) is a debt due by that entity to the Territory; and

(b) may be recovered by the Territory (or another person on behalf of the Territory) in a court of competent jurisdiction.

(3) The Territory may assign to the Commonwealth the right to recover a debt mentioned in subsection (2).

(4) In this section:

approval authority, see section 6 of the *Australian Education Act 2013* (Cth).

block grant authority, see section 6 of the *Australian Education Act 2013* (Cth).

entity means:

(a) an approval authority; or

(b) a block grant authority; or

(c) a non-government representative body.

non-government representative body, see section 6 of the *Australian Education Act 2013* (Cth).

181 Power to exempt, waive or refund fees

If a power is conferred under this Act for a fee to be charged, the power includes power to provide for the following to alleviate financial hardship or in other special circumstances:

(a) the exemption from payment of the fee;

(b) the waiver (wholly or partly) of the fee;

(c) the refund (wholly or partly) of the fee.

182 Consent for prosecution

(1) A legal proceeding for an offence against this Act, other than Part 4, cannot be commenced without the Minister's written consent.

(2) A legal proceeding for an offence against Part 4 cannot be commenced without the CEO's written consent.

(3) In a legal proceeding, a document purporting to be the consent of the Minister or CEO is evidence of that consent.

183 Approved forms

The CEO may approve forms for this Act.

184 Protection from liability

(1) This section applies to the following persons:

(a) a member of an advisory council;

(b) a member of the Northern Territory Board of Studies;

(c) a member of a school representative body;

(d) a person appointed under section 118(4);

(f) an assessor;

(g) an authorised officer;

(h) a person authorised by Part 7 to require the provision of information or a document.

(2) A person to whom this section applies is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the performance of a function under this Act as a member, assessor, authorised officer or person authorised by Part 7, as the case requires.

(3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

(4) In this section:

performance, of a function, includes the purported performance of the function.

185 Regulations

The Administrator may make regulations under this Act.

Part 9 Repeals, transitional provisions and amendments

Division 1 Acts repealed

186 Acts repealed

The Acts specified in Schedule 1 are repealed.

Division 2 Transitional matters for Education Act 2015

187 General transitional provisions

(1) This Division does not affect or take away from the *Interpretation Act 1978*.

(2) If this Division provides that a provision of the repealed Act continues to apply to any matter or thing, then any regulation or other instrument having effect under that Act for that provision also continues to apply to that matter or thing.

(3) If under this Division a provision of the repealed Act or a regulation or instrument continues to apply to a matter or thing, it continues to apply as in force immediately before the provision was repealed.

188 Transitional matters for repeal of *Education Act 1979*

(1) Despite the repeal effected by section 186, Part 2A of the repealed Act (and any regulations for that Part) continues to operate until the commencement of Part 3 of this Act.

(2) Despite the repeal effected by section 186, Part 7 of the repealed Act (and any regulations for that Part) continues to operate until the commencement of Part 7 of this Act.

(3) Despite the repeal effected by section 186, Part 9 of the repealed Act (and any regulations for that Part) continues to operate until the commencement of Part 6, Divisions 3 and 4 of this Act.

189 Northern Territory Board of Studies

On 1 July 2016 the Northern Territory Board of Studies established by section 10B of the repealed Act is abolished and its members go out of office.

190 Advisory councils

On 1 January 2016 an advisory council mentioned in section 11 of the repealed Act in existence immediately before that date is taken to be an advisory council established under section 19 of this Act.

191 Home education

(1) An application made before 1 January 2016 under section 20E of the repealed Act for approval to provide home education that is not determined immediately before that date is taken to be an application under section 46 of this Act.

(2) An approval of home education in force under section 20E of the repealed Act immediately before 1 January 2016 is taken on and after that date to be an approval under section 46 of this Act.

192 Authorised persons

An appointment of a person as an authorised person under section 25(2) of the repealed Act in force immediately before 1 January 2016 is taken to be an appointment of that person under section 167(2) of this Act.

193 Non-Government schools

(1) Part 7 of the repealed Act continues to apply on and after 1 April 2016 in relation to an application made, but not determined, under section 63A or 68F of that Act before that date.

(2) On 1 April 2016 the Registration Assessment Panel mentioned in section 64 of the repealed Act in existence immediately before that date is taken to be the Registration Assessment Panel established by section 133 of this Act.

(3) An appointment of a person as an assessor under section 68(1), or as a member of panel of nominees under section 68(4), of the repealed Act in force immediately before 1 April 2016 is taken to be an appointment of that person under section 146(1) or (4), as the case requires, of this Act.

(4) On 1 April 2016 a school registered under Part 7 of the repealed Act immediately before that date is taken to be a school registered under Part 7 of this Act.

Division 3 Transitional matters for Education Legislation Amendment Act 2023

194 Definition

In this Division:

amending Act means the *Education Legislation Amendment Act 2023*.

195 Registration requirements

For the period commencing on the commencement of section 12 of the amending Act (the ***commencement***) and ending on 31 December 2024, a registered non-Government school is taken to comply with the registration requirements under section 125 of the Act as in force immediately after the commencement, if the school complies with the registration requirements under

section 125 of the Act as in force immediately before the commencement.

196 Applications for registration made but not decided before commencement

(1) This section applies in relation to an application for registration of a non-Government school that was made but not decided before the commencement of sections 13 to 18 of the amending Act (the ***commencement***).

(2) The application is to be reviewed and determined in accordance with Part 7, Divisions 3, 4 and 5, of the Act as in force immediately before the commencement.

(3) The Registration Assessment Panel in existence immediately before the commencement of section 17 of the amending Act must continue to deal with the application in accordance with subsection (2).

197 Application of section 156 to reviewable decisions made before commencement

Section 156 of this Act, as in force immediately before the commencement of section 31 of the amending Act (the ***commencement***), continues to apply to a reviewable decision under section 156 that was made before the commencement.

Schedule 1 Repealed Acts

section 186

Education Act 1979	Act No. 77, 1979
Education Act (No. 2) 1979	Act No. 145, 1979
Education Amendment Act 1981	Act No. 32, 1981
Education Amendment Act 1982	Act No. 95, 1982
Education Amendment Act 1983	Act No. 54, 1983
Education Amendment Act 1984	Act No. 4, 1984
Education Amendment Act (No. 2) 1984	Act No. 36,1984
Education Amendment Act 1985	Act No. 1, 1985
Education Amendment Act (No. 2) 1985	Act No. 61, 1985
Education Amendment Act 1988	Act No. 61, 1988
Education Amendment Act (No. 2) 1988	Act No. 4, 1989
Education Amendment Act 1991	Act No. 64, 1991
Education Amendment Act (No. 2) 1991	Act No. 71, 1991
Education Amendment Act 1994	Act No. 24, 1994
Education Amendment Act (No. 2) 1994	Act No. 59, 1994
Education Amendment Act 1994 Amendment Act 1994	Act No. 67,1994
Education Amendment Act 1996	Act No. 29, 1996
Education Amendment Act 2000	Act No. 50, 2000
Education Amendment Act 2002	Act No. 60, 2002
Education Amendment (Non-Government Schools) Act 2009	Act No. 33, 2009
Education Amendment (Youth Participation) Act 2009	Act No. 34, 2009
Education Legislation Amendment Act 2011	Act No. 14, 2011

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 Act 2015* (Act No. 28, 2015)**
Assent date 10 December 2015
Commenced pt 6, divs 2 and 4 and pt 7: 1 April 2016; pt 3: 1 July 2016; rem: 1 January 2016 (s 2)

***Training and Skills Development Act 2016* (Act No. 25, 2016)**
Assent date 29 June 2016
Commenced 4 July 2016 (*Gaz* S61, 4 July 2016)

***Health Practitioner Regulation (National Uniform Legislation) and Other Legislation Amendment Act 2018* (Act No. 28, 2018)**
Assent date 30 November 2018
Commenced 1 December 2018 (s 2)

***Statute Law Revision Act 2020* (Act No. 26, 2020)**
Assent date 19 November 2020
Commenced 20 November 2020

***Youth Justice Legislation Amendment Act 2021* (Act No. 9, 2021)**
Assent date 14 May 2021
Commenced 15 May 2021 (s 2)

***Education Legislation Amendment Act 2023* (Act No. 27, 2023)**
Assent date 3 November 2023
Commenced 2 January 2024 (s 2)

***Education Legislation Amendment Act 2025* (Act No. 5, 2025)**
Assent date 3 April 2025
Commenced pt 3: nc; rem: 4 April 2025 (s 2)

Care and Protection of Children Legislation Amendment (Every Child Matters) Act 2026 **(Act No. 22, 2026)**

Assent date	13 August 2026
Commenced	pts 3 and 4: nc; rem: 31 August 2026 (*Gaz* S70, 25 August 2026)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 5, 15, 38, 46, 56, 100, 115, 120, 163, 170, 173, 179, 187 and 188.

4 LIST OF AMENDMENTS

s 4	amd No. 27, 2023, s 4
s 5	amd No. 27, 2023, s 5; No. 5, 2025, s 4
s 38	amd No. 25, 2016, s 112
s 41	amd No. 5, 2025, s 12
s 80	amd No. 5, 2025, s 12
s 89	amd No. 28, 2018, s 8
s 91	amd No. 27, 2023, s 6
s 92	amd No. 27, 2023, s 7
s 103	amd No. 26, 2020, s 3
s 121	amd No. 27, 2023, s 8
s 121A	ins No. 27, 2023, s 9
s 123	amd No. 27, 2023, s 10
ss 123A – 123D	ins No. 27, 2023, s 11
s 125	sub No. 27, 2023, s 12
s 128	amd No. 27, 2023, s 13
s 129	amd No. 27, 2023, s 14
s 130	rep No. 27, 2023, s 15
s 131	amd No. 27, 2023, s 16
pt 7 div 4 hdg	sub No. 27, 2023, s 17
ss 133 – 135	sub No. 27, 2023, s 17
s 136	rep No. 27, 2023, s 17
s 137	amd No. 27, 2023, s 18
s 140	amd No. 27, 2023, s 19
s 145	amd No. 27, 2023, s 20
ss 145A – 145B	ins No. 27, 2023, s 21
pt 7 div 7A hdg	ins No. 27, 2023, s 21
ss 145C – 145G	ins No. 27, 2023, s 21
s 146	sub No. 27, 2023, s 22
s 147	amd No. 27, 2023, s 23
s 148	amd No. 27, 2023, s 24
s 149	amd No. 27, 2023, s 25
s 152	rep No. 27, 2023, s 26
pt 7 div 9 sdiv 1 hdg	ins No. 27, 2023, s 27

pt 7	
div 9	
sdiv 2 hdg	ins No. 27, 2023, s 28
s 154	amd No. 27, 2023, s 29
pt 7	
div 9	
sdiv 3 hdg	ins No. 27, 2023, s 30
s 155	sub No. 27, 2023, s 30
ss 155A – 155E	ins No. 27, 2023, s 30
s 156	amd No. 27, 2023, s 31
ss 156A – 155B	ins No. 27, 2023, s 32
s 158	amd No. 27, 2023, s 33
pt 7	
div 12 hdg	rep No. 27, 2023, s 34
s 161	sub No. 27, 2023, s 34
s 163	amd No. 25, 2016, s 112
s 166A	ins No. 5, 2025, s 5
s 167	amd No. 5, 2025, s 6
s 168	amd No. 5, 2025, s 7
s 168A	ins No. 5, 2025, s 8
s 170	amd No. 27, 2023, s 35
s 170A	ins No. 27, 2023, s 36
s 171	amd No. 5, 2025, s 9
s 172	amd No. 5, 2025, s 10
s 173	amd No. 9, 2021, s 37; No. 27, 2023, s 37; No. 5, 2025, s 11; No. 22, 2026, s 34
s 174	amd No. 5, 2025, s 12
s 176	amd No. 5, 2025, s 12
s 177	amd No. 27, 2023, s 38
s 178	amd No. 27, 2023, s 39
s 184	amd No. 27, 2023, s 40
s 186	amd No. 26, 2020, s 3
pt 9	
div 3 hdg	exp No. 28, 2015, s 196 ins No. 27, 2023, s 41
s 194	exp No. 28, 2015, s 194(5) ins No. 27, 2023, s 41
ss 195 – 196	exp No. 28, 2015, s 196 ins No. 27, 2023, s 41
s 197	ins No. 27, 2023, s 41
sch 2	exp No. 28, 2015, s 196