

NORTHERN TERRITORY OF AUSTRALIA

EDUCATION LEGISLATION AMENDMENT ACT 2011

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Act No. 14 of 2011

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. 14 of 2011

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An Act to amend the *Education Act* and related legislation

[Assented to 19 May 2011]  
[Second reading 31 March 2011]

The Legislative Assembly of the Northern Territory enacts as follows:

## Part 1 Preliminary matters

### 1 Short title

This Act may be cited as the *Education Legislation Amendment Act 2011*.

### 2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

## Part 2 Amendment of Education Act

### 3 Act amended

This Part amends the *Education Act*.

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**4 Section 4 amended**

- (1) Section 4(1), definitions *compulsory school age*, *eligible option* and *head teacher*

*omit*

- (2) Section 4(1)

*insert (in alphabetical order)*

*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.

*attends*, for Part 4, see section 19A.

*authorised officer* means any of the following:

- (a) the CEO;
- (b) an authorised person;
- (c) a departmental officer.

*authorised person*, for Part 4, see section 25.

*CEO* means the Chief Executive Officer.

*compliance notice*, for Part 4, see section 23A(2).

*compulsory school age*, see section 20(1).

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

*distance education centre* includes a school of the air, a correspondence school and the Northern Territory Open Education Centre.

*eligible option*, see section 20(3)(a).

*home education*, for Part 4, see section 19.

*information notice*, for Part 4, see section 23(2).

*living independently*, for Part 4, see section 19C.

*principal* means the person to whom the administration and control of a school is committed.

*reasonably believes* means believes on reasonable grounds.

*school day* means a day on which instruction is provided at a school for children enrolled in the school.

*second or subsequent offence*, for Part 4, see section 19B.

## 5 Part 4 replaced

Part 4

*repeal, insert*

## Part 4 Enrolment, attendance and participation

### Division 1 Preliminary matters

#### 19 Definitions

In this Part:

*attends*, see section 19A.

*authorised person*, see section 25.

*compliance notice*, see section 23A(2).

*compulsory school age*, see section 20(1).

*eligible option*, see section 20(3)(a).

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

*information notice*, see section 23(2).

*living independently*, in relation to a child, see section 19C.

*second or subsequent offence*, see section 19B.

#### 19A 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) Also, a child is taken to attend school if the child is participating in a school activity that is not located at the school.

*Examples for subsection (2)*

- 1 A school camp.
- 2 An excursion organised by the school.

### **19B Meaning of *second or subsequent offence***

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

- (a) the person is, after the commencement of this section, found guilty of an offence against this Part; and
- (b) the person has previously been found guilty of an offence of the same nature, whether in relation to the same child or another child.

### **19C 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) The 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 this Part.

### **19D Application of Criminal Code**

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

*Note for section 19D*

*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.*

## **Division 2 Compulsory education**

### **20 Compulsory school age**

- (1) A child is of ***compulsory school age*** if the child is of or above the age of 6 years and below the minimum school leaving age.
- (2) The minimum school leaving age is the earlier of the following:
  - (a) the age when the child completes year 10 of secondary education;

- (b) the age of 17 years.
- (3) However, a child who completes year 10 of secondary education and is below the age of 17 years is of compulsory school age unless:
- (a) the child 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; or
  - (b) the child is exempt from participating in an eligible option.
- (4) If a child is not of compulsory school age because of participation in an eligible option, the child does not become of compulsory school age merely because the child stops participating unless the break in participation totals more than 3 months in any 12-month period.
- (5) The completion of year 10 of secondary education is:
- (a) the completion of year 10 of secondary education in the Territory or the equivalent in a State or another Territory; or
  - (b) the completion of education approved by the CEO in special circumstances for a particular child.
- (6) Participation in approved education or training is participation in any 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 educational program or course of study or instruction provided by the Charles Darwin University or Batchelor Institute of Indigenous Tertiary Education;
  - (c) a higher education course accredited under the *Higher Education Act*;
  - (d) an accredited course or approved apprenticeship under the *Northern Territory Employment and Training Act*;
  - (e) other education or training approved by the CEO by *Gazette* notice;

- (f) other education or training at an institution in a State or another Territory where the education or training would, if provided in the Territory, comply with the requirements of this Part.
- (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 given by written notice to a parent of the child or, if the child is living independently, the child.
- (9) A regulation may be made about the following:
- (a) whether a child completes year 10 of secondary education;
  - (b) whether a child is participating in an eligible option.
- (10) Subject to the Regulations, participation on a full-time basis in paid employment is participation for an average of 25 hours a week.

## **20A Compulsory enrolment**

- (1) A parent who has the actual custody of a child of compulsory school age must enrol the child in:
- (a) a Government school; or
  - (b) 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) If a child of compulsory school age is living independently, the child must enrol himself or herself in a school mentioned in subsection (1)(a) or (b).

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) Subsections (1) and (2) do not apply in relation to a child:
- (a) who is complying with special arrangements made under Part 5 for the child; or
  - (b) who is 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; or
  - (c) for whom the parent is providing home education in accordance with an approval under section 20E.
- (5) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant establishes a reasonable excuse.

## **20B Direction about enrolment**

- (1) This section applies if the CEO reasonably believes:
- (a) the enrolment of a child in a particular Government school may constitute a risk to the child, staff or other students; or
  - (b) the enrolment of a child in other than a particular Government school may constitute a risk to the child, staff or other students; or
  - (c) a particular Government school may be better able to meet the special needs of a child than other Government schools.
- (2) The CEO may direct that:
- (a) the child is not to be enrolled in a specified Government school; or
  - (b) if the child is to be enrolled in a Government school – the child must be enrolled in a specified Government school; or
  - (c) if the child is enrolled in a Government school – the child 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 having actual custody of the child; or
  - (b) if the child is living independently – the child.
- (4) The child must not be enrolled in a Government school in contravention of the direction.

(5) This section does not limit Part 5.

(6) In this section:

*risk* includes risk of physical or psychological harm.

## **20C Compulsory attendance at school**

(1) This section applies in relation to a child of compulsory school age who is enrolled in a school.

(2) A parent who has the actual custody of the child must ensure the child attends the school each day, or each part of a day, on which instruction is provided for the child.

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

For a second or subsequent offence –  
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 establishes a reasonable excuse.

(5) Without limiting subsection (4), it is a reasonable excuse if the defendant establishes that he or she is unable to control the child's behaviour to the extent necessary to ensure the child attends school.

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

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

For a second or subsequent offence –  
2 penalty units.

(7) An offence against subsection (6) is an offence of strict liability.

(8) It is a defence to a prosecution for an offence against subsection (6) if the defendant establishes a reasonable excuse.

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

(a) the child is exempted from attendance, or prohibited from attending, under this Part; or

- (b) a parent of the child or, if the child is living independently, the child, gives a reason acceptable to the principal of the school for the child's absence; or
- (c) the child's absence is on a day, or part of a day, of significance to the child's ethnic group and a parent of the child or, if the child is living independently, the child, gives the reason for the absence to the principal of the school.

(10) In this section:

*school* does not include a distance education centre.

## **20D Compulsory participation at distance education centre**

- (1) This section applies in relation to a child of compulsory school age who is enrolled in a distance education centre.
- (2) A parent who has the actual custody of the child must ensure the child reasonably attends to all course requirements of the educational instruction provided by the distance education centre.

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

For a second or subsequent offence –  
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 establishes a reasonable excuse.
- (5) Without limiting subsection (4), it is a reasonable excuse if the defendant establishes that he or she is unable to control the child's behaviour to the extent necessary to ensure the child reasonably attends to all course requirements of the educational instruction provided by the distance education centre.
- (6) If the child is living independently, the child must reasonably attend to all course requirements of the educational instruction provided by the distance education centre.

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

For a second or subsequent offence –  
2 penalty units.

- (7) An offence against subsection (6) is an offence of strict liability.

- (8) It is a defence to a prosecution for an offence against subsection (6) if the defendant establishes a reasonable excuse.
- (9) Subsections (2) and (6) do not apply if:
  - (a) the child is exempted under this Part from course requirements of the educational instruction provided by the distance education centre; or
  - (b) a parent of the child or, if the child is living independently, the child, gives a reason acceptable to the principal of the distance education centre for the child's non-attendance to the course requirements.

## **20E Home education**

- (1) A parent of a child of compulsory school age who proposes to provide home education for the child must, before providing the home education:
  - (a) apply to the CEO for approval to provide home education; and
  - (b) give the CEO details of the proposed home education.
- (2) To determine whether the proposed home education is suitable, the CEO may direct a departmental officer to enquire into the proposal and give a report about the proposed education.
- (3) If the CEO is satisfied home education proposed for a child is suitable, the CEO may approve the home education.
- (4) The approval must be in writing and is subject to the following conditions:
  - (a) the approval is for one school year only;
  - (b) the parent must allow inspections from time to time by departmental officers;
  - (c) any other conditions the CEO considers appropriate and specifies in the notice of approval.

**20F Exemption by Minister**

The Minister may exempt a child of compulsory school age from attendance at school, or from course requirements of educational instruction provided by a distance education centre, for a specified period if satisfied it is appropriate to do so because of special circumstances.

*Example for section 20F*

*The child is seriously ill.*

**20G Child may be withdrawn from specified course**

- (1) A parent of a child enrolled in a Government school may request the principal of the school to withdraw the child from the whole or a specified part of a specified course of instruction provided for the child at the school.
- (2) The principal:
  - (a) may agree to the request and make the necessary arrangements to comply with it 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 child attending the course or part of the course and the course is not an essential part of the curriculum.

**20H Person not to attend school in certain circumstances**

- (1) This section applies if the principal of a Government school reasonably believes a person enrolled at that school is suffering from an infectious or contagious disease.
- (2) The principal may give written notice directing that the person is not to attend school for a specified period to:
  - (a) for a child:
    - (i) a parent having actual custody of the child; or
    - (ii) if the child is living independently – the child; or
  - (b) for a person who is not a child – the person.

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

### **Division 3      Suspension and expulsion**

#### **21      Suspension by principal**

- (1) This section applies if the principal of a Government school is satisfied a person who is enrolled in the school should be suspended from attending the school because the person's presence would be harmful to the health or moral welfare of other persons at the school.

*Examples for subsection (1)*

*The person is insolent, repeatedly disobedient, conducts himself or herself immorally or is guilty of a serious breach of discipline.*

- (2) The principal may, by written notice given to the person, suspend the person from attendance at the school.
- (3) 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 person is a child – a parent who has the actual custody of the child.
- (4) The suspension has effect:
- (a) for the period, not exceeding 1 month, specified in the notice of suspension; or
  - (b) if the Minister expels the person within the period mentioned in paragraph (a) – until the expulsion.

#### **21A      Expulsion by Minister**

- (1) If the Minister considers it necessary in the interests of other persons attending a Government school, the Minister may, by written notice given to a person, expel the person from the school in which the person is enrolled.
- (2) The Minister must, as soon as practicable after expelling a child who is not living independently, give a copy of the notice of expulsion to a parent who has actual custody of the child.

- (3) The Minister may review the expulsion and may revoke the expulsion if satisfied the person should be no longer expelled from the school.
- (4) The Minister must give a notice of revocation of the expulsion to:
  - (a) for a child who is not living independently – a parent having actual custody of the child; or
  - (b) in any other case – the expelled person.

**21B Parent to ensure non-attendance**

- (1) This section applies if a parent has been notified:
  - (a) under section 20H that a child is not to attend a school for a period; or
  - (b) under section 21 that a child is suspended from a school for a period; or
  - (c) under section 21A that a child is expelled from a school.
- (2) The parent must ensure the child does not attend school:
  - (a) during the period specified in the notice (unless a certificate mentioned in section 20H(3) has been given); or
  - (b) while the child is expelled from the school.

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

For a second or subsequent offence –  
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 establishes a reasonable excuse.
- (5) Without limiting subsection (4), it is a reasonable excuse if the defendant establishes that he or she is unable to control the child's behaviour to the extent necessary to ensure the child does not attend school.

- (6) If a child living independently has been given a notice mentioned in subsection (1), the child must not attend school as mentioned in subsection (2).

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

For a second or subsequent offence –  
2 penalty units.

- (7) An offence against subsection (6) is an offence of strict liability.
- (8) It is a defence to a prosecution for an offence against subsection (6) if the defendant establishes a reasonable excuse.

### **21C Re-enrolment after expulsion**

If a person has been expelled from a Government school, the person 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 21C*

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

## **Division 4 Further education or training**

### **22 Parents to ensure participation in eligible option**

- (1) This section applies if a child:
- (a) completes year 10 of secondary education under section 20 and is below the age of 17 years; and
- (b) is not exempt from participating in an eligible option.
- (2) A parent of the child who has the actual custody 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) 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 establishes a reasonable excuse.



(5) Without limiting subsection (4), it is a reasonable excuse if the defendant establishes that he or she is unable to control the child's behaviour to the extent necessary to ensure the child participates in an eligible option.

(6) 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.

(7) An offence against subsection (6) is an offence of strict liability.

(8) It is a defence to a prosecution for an offence against subsection (6) if the defendant establishes a reasonable excuse.

## **22A Enquiries about participation in eligible option**

(1) For the effective administration of this Part in relation to the requirement for a child to participate in an eligible option, the CEO may make the enquiries 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 ask the person to give relevant information about the child's participation in an eligible option.

(3) The request 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 relevant 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 establishes 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 under section 20(6); or
  - (b) employs the child.

## **Division 5      Enforcement powers**

### **23      Information notice**

- (1) This section applies if the CEO reasonably believes section 20A, 20C, 20D, 20E or 22 is not being complied with in relation to a child.
- (2) The CEO may give a written notice (an *information notice*) requiring specified information to one of the following:
- (a) a parent having actual custody 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 the CEO believes 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 the CEO considers appropriate.

- (5) A parent given an information notice must comply with it.
- Maximum penalty: For a first offence – 15 penalty units.  
For a second or subsequent offence – 20 penalty units.
- (6) A child given an information notice must comply with it.
- 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 establishes a reasonable excuse.

### **23A Compliance notice**

- (1) This section also applies in the circumstances mentioned in section 23(1), whether or not an information notice has been given in the circumstances.
- (2) The CEO may give written notice (a *compliance notice*) to one of the following:
- (a) a parent having actual custody of the child;
  - (b) if the child is living independently – the child.
- (3) The compliance notice must:
- (a) specify that it is a compliance notice under this Act; 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 the CEO considers appropriate.

- (5) If the CEO considers it appropriate, the CEO may extend the period mentioned in subsection (3)(d) on the CEO's own initiative or on request by the person given the compliance notice.
- (6) However, the period cannot be extended if the period for compliance has ended.
- (7) A parent given a compliance notice must comply with it.
- Maximum penalty: For a first offence – 15 penalty units.
- For a second or subsequent offence – 20 penalty units.
- (8) A child given a compliance notice must comply with it.
- 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 establishes a reasonable excuse.
- (11) If the CEO is satisfied the compliance notice has been complied with, the CEO must revoke the notice by written notice given to the parent or child given the compliance notice.

### **23B Compulsory conference**

- (1) This section applies if the CEO reasonably believes a provision of this Part is not being complied with in relation to a child.
- (2) The CEO may, by written notice, direct any of the following persons to attend a compulsory conference addressing the issues the CEO believes necessary to achieve compliance with the provision:
- (a) a parent or parents of the child;
  - (b) the child concerned;
  - (c) other persons the CEO considers appropriate.

*Examples for subsection (2)(c)*

*A social worker, child psychologist, school principal, church representative, 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 agrees to the request;
  - (c) the CEO 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 may agree to the request if the CEO considers the conference is more likely to be successful with the presence of the support person.
- (6) The conference must be conducted by a departmental officer.
- (7) The purpose of the conference is to ensure the child receives education or training in accordance with this Part.
- (8) For achieving the 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 the conference participants consider appropriate;
  - (d) formulate undertakings for a family responsibility agreement under Part 6A of the *Youth Justice Act*, or orders for a family responsibility order under that Act.
- (9) Despite the *Information Act*, 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 directed to attend the conference must 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 directed to attend the conference must 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 establishes a reasonable excuse.

### **23C 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) reasonably believes the child should either be attending a school or participating in an eligible option.

(2) The authorised person may require the child to:

(a) state his or her name, address and age; and

(b) state the name of the school (if any) in which the child is enrolled and give details of any eligible option in which the child participates; and

(c) explain why the child is absent from school or is not presently participating in an eligible option.

- (3) The child must 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 officer 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 into the care of the school principal;
  - (b) accompany the child to the child's home or another place the authorised person considers appropriate in the circumstances;
  - (c) take any action the authorised person considers appropriate in relation to non-participation by the child in an eligible option.

**23D 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 which has been given under section 23C(2) 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 ordinarily 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 required to give information mentioned in subsection (1) must 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 required to give information mentioned in subsection (1) must 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 establishes a reasonable excuse.

### **23E Authorised person may direct child be enrolled**

- (1) If an authorised person reasonably believes a child of compulsory school age 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 given a direction under subsection (1)(a) must comply with it.

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

For a second or subsequent offence –  
20 penalty units.

- (3) A child given a direction under subsection (1)(b) must comply with it.

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 establishes a reasonable excuse.
- (6) A person given a direction under subsection (1) must, if requested, give the authorised person sufficient evidence of the enrolment.
- (7) If the authorised person considers it appropriate, the authorised person may extend the period mentioned in subsection (1) by no more than 10 school days.



**Division 6      Offences and evidentiary matters****24      Employment of children**

- (1) This section applies in relation to a child of compulsory school age who has not completed year 10 of secondary education.
- (2) A person must not employ, or permit to be employed, the child during a time of a school day when the child is required to attend school.

Fault elements:

The person:

- (a) intentionally employs the child; and
- (b) is reckless as to whether the child:
  - (i) is of compulsory school age; and
  - (ii) has completed year 10 of secondary education; and
- (c) knows the day is a school day.

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.

- (3) Also, a person must not employ, or permit to be employed, the child at any time in employment likely to cause the child to be:
  - (a) unfit or unable to attend school at the times the child is required to attend school; or
  - (b) unfit or unable to understand instruction provided for the child when attending the school.

Fault elements:

The person:

- (a) intentionally employs the child; and

- (b) is reckless as to whether the child is or will be unfit or unable to attend school or understand instruction.

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.

- (4) Subsections (2) and (3) do not apply if an exemption under subsection (5) applies in relation to the child.
- (5) The Minister may grant an exemption for a child from all or any of the provisions of subsection (2) or (3) if satisfied it is appropriate to do so because of special circumstances.

#### **24A Obstruction of authorised officer**

- (1) A person must not obstruct an authorised officer acting in an official capacity.

Fault elements:

The person:

- (a) knows the authorised officer is acting in an official capacity; and
- (b) intentionally obstructs the authorised officer.

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) In this section:

***obstruct***, includes hinder and resist.

**24B Misleading information**

- (1) A person must not give misleading information to an authorised officer acting in an official capacity.

Fault elements:

The person:

- (a) intentionally gives the information to the authorised officer; and
- (b) is reckless as to whether the information is misleading; and
- (c) 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 must not give a document containing misleading information to an authorised officer acting in an official capacity.

Fault elements:

The person:

- (a) intentionally gives the document to the authorised officer; and
- (b) is reckless as to whether the document contains misleading information; and
- (c) 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) Subsection (2) does not apply if the person or child, 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.

(4) In this section:

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

#### **24C Evidentiary certificates**

(1) In a legal proceeding, a certificate purporting to be signed by the principal of a school stating that the child named in it did or did not attend that school on the date or dates specified in it 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 child is of, above, or below, a specified age;
- (c) at a specified time a specified child was or was not enrolled in a specified school;
- (d) a specified person is the principal of a specified school;
- (e) at a specified time instruction was provided for a specified child at a specified school.

**Division 7      Administrative matters****25      Authorised persons**

- (1) Each of the following is an *authorised person*:
  - (a) a police officer;
  - (b) a person appointed by the CEO as an authorised person under subsection (2).
- (2) The CEO may appoint a person to be an authorised person for this Act.

**25A      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
  - (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.
- (4) An authorised person (other than a police officer in uniform) may exercise a power in relation to a person only if the authorised person produces his or her identity card to the person for inspection.
- (5) 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.

- (6) An offence against subsection (5) is an offence of strict liability.
- (7) It is a defence to a prosecution for an offence against subsection (5) if the defendant establishes a reasonable excuse.

**25B Protection from liability**

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as an authorised officer.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) In this section:

*exercise*, of a power, includes the purported exercise of the power.

*performance*, of a function, includes the purported performance of the function.

**25C Information sharing**

- (1) Despite the *Information Act*, 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 who may not be receiving compulsory education or may not be participating in an eligible option; or
    - (ii) the reasons why the child may not be receiving that education or participating in an eligible option; or
  - (b) that might otherwise assist the CEO in the administration of this Part.
- (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 due to exceptional circumstances.
- (6) The CEO may also disclose relevant information, or other information known to the CEO, to another Agency or body (including from another jurisdiction) if:
  - (a) the Agency or body has responsibilities in relation to children (whether specifically or generally); and
  - (b) the CEO considers 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.

## **6 Section 74 replaced**

Section 74

*repeal, insert*

## **74 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.

## **7 Act further amended**

The Schedule has effect

## **Part 3 Amendment of Education (Infringement Notice) Regulations**

## **8 Regulations amended**

This Part amends the *Education (Infringement Notice) Regulations*.

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**9 Regulation 3 amended**

Regulation 3, definition *authorised person*  
*omit*

**10 Regulation 8 amended**

Regulation 8  
*omit*  
 Chief Executive Officer  
*insert*  
 CEO

**11 Schedule replaced**

Schedule  
*repeal, insert*

**Schedule Infringement notice offences and prescribed amounts**

regulation 4

Provision of Act	Prescribed amount (penalty units)
section 20A(1)	2
section 20A(2)	0.2
section 20C(2)	2
section 20C(6)	0.2
section 20D(2)	2
section 20D(6)	0.2
section 21B(2)	2
section 21B(6)	0.2



section 22(2)	2
section 22(6)	0.2
section 22A(4)	2
section 22A(8)	0.2
section 23(5)	2
section 23(6)	0.2
section 23A(7)	2
section 23A(8)	0.2
section 23B(11)	2
section 23B(12)	0.2
section 23C(3)	0.2
section 23D(2)	2
section 23D(3)	0.2
section 23E(2)	2
section 23E(3)	0.2
section 25A(5)	2

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**Schedule Education Act further amended**

section 7

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 4(2)	notice in the <i>Gazette</i>	<i>Gazette</i> notice
section 4(3)	shall	must
section 4(5)	shall have him	has the Minister
section 6(1) and (3)	his	the Minister's
section 6(1)(b)	him	the Minister
section 6(2)	shall	must
section 6(1)(a) and (4)(a), (a)(i) and (b) to (f), at the end		and
section 6(4)(a)(iii)	colleges,	colleges;
section 6(4)(a), (c) and (e)	he	the Minister
section 6(4)(b)	such extent as he	the extent the Minister
section 6(4)(c)	such the purposes of	the
section 6(4)(e)	such	the
section 7(2)	may:	may do any of the following:
section 7(2)(a)	shall subsist	continues
section 7(2)(e)	shall undertake	undertakes
section 8 heading	<b>Chief Executive Officer's</b>	<b>CEO's</b>

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section 8(2)	whole subsection	(1) The CEO is, in the exercise of powers and the performance of functions under this Act (other than Part 7), subject to the direction and control of the Minister.
section 8(3)	(3) The Chief Executive Officer may, upon the direction in writing of authorized	(2) The CEO may, if directed in writing by authorised
section 9(1) and (2)	Chief Executive Officer	CEO
section 9(1)	him	the CEO
section 9(2)	his	the CEO's
section 9A(1)	(1) The his	The the Minister's
section 9A(2) and (3)	whole subsection	
section 10(1)	Chief Executive Officer shall furnish	CEO must give
section 10(2)	whole subsection	(2) The Minister must table a copy of the report in the Legislative Assembly within 3 sittings days after the Minister receives the report.
section 10C(6)	the purposes of	

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section 10D(1)	such period, not exceeding 3 years, as is specified in his	the period, not exceeding 3 years, specified in the
section 10D(2)	in an instrument of appointment of a member referred to in subsection (1)	
section 10F	may resign his	may resign his or her
section 10G(2)(b)	his creditors or makes an assignment of his remuneration for their benefit,	the member's creditors or makes an assignment of his or her remuneration for their benefit;
sections 10G(2) and 10H(1), (2) and (4)	shall	must
section 10H(3)(a), at the end		and
section 10H(3)(b)	shall be shall have	are to be has
section 10H(3)(c)	shall	may
section 10J(a)(i) to (iii), at the end		and
section 10M(1)	shall determine his shall issue him	may determine the person's must issue the person
section 10M(5)	(5) The shall recognized	(2) The must recognised
section 10Q	shall his	must his or her
section 10Q(a)	his	his or her
section 10Q(b)	authorized	authorised

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section 10S, heading	, &c.,	etc.
section 10S(1)	Chief Executive Officer	CEO
section 10T	shall furnish	must give
section 34(1)	the purposes of this to him his ( <i>all references</i> )	the Minister's
section 34(2) and (3)	shall	
section 34(2)(a)	consist	consists
section 34(2)(b), after "Minister,"		may
section 35(1)	he	the Minister
section 36(1)(b)	head teacher enrolled,	principal enrolled;
section 36(1)(d)	whole paragraph	(d) that principal;
section 36(2)	he	the parent
section 37	he	the Minister
section 37(a)(ii)	authorized	authorised
section 38(2)(a) to (d)	authorize	authorise
section 38(2)(a) and (b), at the end		or
section 38(3)	shall	must
section 38(5)	shall	are to
section 39	shall	must
section 40, definition <i>chairman</i>	<i>chairman</i> means the chairman	<i>chairperson</i> means the chairperson
section 40, definition <i>vice-chairman</i>	<i>vice-chairman</i> means the chairman	<i>vice-chairperson</i> means the chairperson

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section 41(1)(a)	notice in the <i>Gazette</i>	<i>Gazette</i> notice
section 41(1)(b) and (2)	shall	must
section 41(3)(a), at the end		and
section 41(3)(b)	shall have	has
section 41(4)	shall take document, and shall	must take document and
section 42(a), at the end		and
section 42(c)	thereto	to the proposals
section 43(2)(a) to (j), at the end		and
section 44(1)	shall	are to
section 44(2)	shall be deemed	are taken
section 44(3)(a)	shall	must
section 45(1) and (2)	shall consist	consists
section 45(1)(a) to (f) and (2)(a) to (e), at the end		and
section 45(1)(a)	chairman, who shall be	chairperson
section 45(1)(b)	Chief Executive Officer or his	CEO or the CEO's
section 45(2)	Notwithstanding	Despite
section 45(2)(a)	chairman	chairperson
section 45(2)(a) to (d), at the end		and
section 45(2)(e)	Chief Executive Officer;	CEO; and
section 45(2)(g)	such	the

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section 45(3)	whole subsection	(3) A council must elect one of its members as vice-chairperson to act in the place of the chairperson during the absence or inability to act of the chairperson.
section 46(1)	such period, not exceeding 3 years as is specified in the instrument by which he is appointed	the period, not exceeding 3 years, specified in the instrument of appointment
section 46(3)	his he	his or her he or she
section 47(1)	section 45(2)(b)	(2)(b)
section 47(2)	shall	must
section 47(2)(a) to (c) and (3)(a), at the end		or
section 47(2)(b) and (5)	his <i>(all references)</i>	his or her
section 47(2)(d)	or fails to comply with	
section 47(3)(a)	his	the member's
section 47(3)(b)	notwithstanding that his	even if the
section 47(3)(c)	absented himself him	been absent him or her
section 47(4)	his him	the him or her
section 47(5)	section 45(2)(c) his	(2)(c) his or her
section 48(1) and (2)	chairman <i>(all references)</i>	chairperson

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section 48(1)(a) and (6)(a)	shall	must
section 48(1)(b)	shall he	must the chairperson
section 48(2)	the purposes of shall vice-chairman	vice-chairperson
section 48(3), after "he"		or she
section 48(4)	shall chairman <i>(all references)</i> his vice-chairman <i>(all references)</i>	is to chairperson the chairperson's vice-chairperson
section 48(5)	shall	
section 48(6)	shall	are to
section 48(6)(a)	shall	must
section 48(6)(b)	shall have	has
section 48(7)	shall	may
section 49(1)	shall	must
section 49(2)	he	the person
section 50(1)(b)	council,	council;
section 50(1)	he shall	the person must
section 50(2), after "he"		or she
section 50(2)(a), at the end		or
section 50(2)(c)	person,	person;
section 50(2)	shall be deemed	is taken



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section 50(3)	shall cause to be recorded shall	must record  must
section 50(4)	shall be deemed pursuant to this section, he shall	is taken under this section, the member must
Part 6, Division 4, heading	, &c.	etc.
section 51(3)(a), at the end		and
section 52, heading	, &c.	etc.
section 52(1)(b)	advisers),	advisers);
section 52(2)	shall	are to
Part 6, Division 5, heading	, &c.,	etc.
section 55(3)	him <i>(all references)</i>	the student
section 55(4)	shall also be	is also
section 56(1)	chairman shall	chairperson are to
section 58	Chief Executive Officer shall  , and shall authorized	CEO must  and authorised
section 59, heading	, &c.,	etc.
section 59	whereby in connection therewith	by which for that purpose
section 60A(1), (2) and (4)	shall <i>(all references)</i>	must
section 60A(1)(b)	thereof	of those funds
section 60A(2) and (4)	Chief Executive Officer	CEO

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section 60A(3)	Chief Executive Officer shall shall comply	CEO must must comply
section 60A(4)	him <i>(all references)</i> his	the CEO the CEO's

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