

**NORTHERN TERRITORY OF AUSTRALIA**  
**EDUCATION AMENDMENT (NON-GOVERNMENT SCHOOLS) ACT 2009**

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**Act No. 33 of 2009**

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# NORTHERN TERRITORY OF AUSTRALIA

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**Act No. 33 of 2009**

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An Act to amend the *Education Act*

[Assented to 9 December 2009]  
[Second reading 15 October 2009]

**The Legislative Assembly of the Northern Territory enacts as follows:**

**1 Short title**

This Act may be cited as the *Education Amendment (Non-Government Schools) Act 2009*.

**2 Commencement**

This Act commences on 1 January 2010, immediately after the commencement of the *Education Amendment (Youth Participation) Act 2009*.

**3 Act amended**

This Act amends the *Education Act*.

**4 Amendment of long title**

Long title

*omit*

education programmes

*substitute*

educational programs

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**5 Amendment of section 4 (Definitions)**

(1) Section 4(1), definition ***Education Advisory Council***

*omit*

(2) Section 4(1)

*insert (in alphabetical order)*

***advisory council*** means an advisory council mentioned in section 11.

**6 Repeal and substitution of Part 3**

Part 3

*repeal, substitute*

**Part 3 Advisory councils**

**11 General power to establish advisory councils**

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

(2) An advisory council may be established:

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

(b) to investigate and give advice or make recommendations on a particular question (including, for example, on a question arising from a review of a decision under section 68J).

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

**12 Procedures of advisory council**

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

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**13 Provision of support to advisory council**

The Minister may:

- (a) provide secretarial, administrative or other assistance to an advisory council; or
- (b) approve the payment of costs and expenses reasonably incurred in carrying out the functions of an advisory council.

**7 Amendment of section 21 (Compulsory education)**

Section 21(1)(a)(ii)

*omit, substitute*

- (ii) a non-Government school registered under Part 7; or

**8 Amendment of section 42 (Functions of colleges)**

Section 42(a)

*omit*

programmes of education

*substitute*

educational programs

**9 Repeal and substitution of Part 7**

Part 7

*repeal, substitute*

**Part 7 Non-Government schools**

**Division 1 Preliminary matters**

**61 Definitions**

In this Part:

***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; and

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(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 any 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 61A(a).

**non-Government school** includes a proposed non-Government school.

**not operated for profit**, see section 63B(3).

**Panel** means the Registration Assessment Panel mentioned in section 64.

**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 61A.

**routine assessment** means a routine assessment mentioned in section 68A(1).

**special investigation** means a special investigation mentioned in section 68A(3).

**system school** means a school that is one of a number of non-Government schools for which a single organisation has overall management, policy and planning responsibilities.

**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 (for example, because it is suspended).

**variation**, of the registration of a non-Government school, means the variation of the conditions of the school's registration or any other matter on the basis of which the school is registered (including, for example, the school's location).

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## 61A Registration requirements

The following are the **registration requirements** for a non-Government school:

- (a) the school must be administered by a body corporate (the **governing body**), whose directors:
  - (i) must be persons of good character; and
  - (ii) must collectively possess the skills and experience necessary for the proper administration of the school;
- (b) the governing body's philosophy and objects and the school's educational programs must be consistent with the principles mentioned in section 61B as required by that section;
- (c) the school's methods of governance must be appropriate to its educational programs and the year levels and number of its students;
- (d) the school's facilities must:
  - (i) be appropriate and adequate for the purposes of its educational programs and year levels and number of its students; and
  - (ii) must comply with any relevant requirements of the laws of the Territory;
- (e) the school must be adequately insured for its facilities and for any liabilities that may arise from the conduct of its activities;
- (f) the school must have adequate financial and other resources for its operation;
- (g) the school must have a business plan and a budget that makes appropriate provision for each year of its operation;
- (h) the school's staff establishment (including its structure and size) must be appropriate and adequate for the school's educational programs and the year levels and number of its students;
- (i) the school's staff:
  - (i) must be of good character; and

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- (ii) for its teaching staff – must be registered with the Teacher Registration Board of the Northern Territory and must maintain appropriate standards of professional competence;
  - (j) the school's curriculum and methods of student assessment must meet the requirements of the Northern Territory Board of Studies established by section 10B;
  - (k) the school must have appropriate procedures for its financial management, performance management and accountability, including, for example, procedures for the following:
    - (i) the development and implementation of a strategic management plan;
    - (ii) the assessment of the school's performance against goals set out in the strategic management plan and against national benchmarks;
    - (iii) the keeping of financial and other records about the school (including complying with the requirements in sections 67A and 67B);
    - (iv) the reporting on the school's performance to the community and Chief Executive Officer (including complying with the requirements in sections 67A, 67B and 67C);
  - (l) the school must comply with the current policy of the Northern Territory government in relation to the age of school entry for students;
  - (m) the school's policy for the discipline of students must be based on procedural fairness and must not involve corporal punishment;
  - (n) the school must have adequate provision for meeting the needs of any of its students who has a disability;
  - (o) the school must have adequate safeguards for the health, safety and wellbeing of its staff and students, including, for example, the following:
    - (i) an adequate occupational health and safety manual for its staff;
    - (ii) appropriate procedures to ensure a criminal history report is obtained for each member of its staff;



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- (iii) an adequate contingency plan for emergencies;
  - (p) the school must have appropriate policies and procedures to deal with complaints and disputes;
  - (q) an annual self audit must be conducted for the school in accordance with section 67D;
  - (r) any other matter, or a matter relating to a matter mentioned in any of the preceding paragraphs, prescribed by regulation.

#### **61B Consistency with basic principles**

The philosophy and objects of the governing body of a non-Government school and the school's educational programs (including the way in which they are provided) must be consistent with the following principles:

- (a) governments should be democratically elected;
- (b) the rule of law should prevail and all 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 civilised values.

### **Division 2 Requirement for registration**

#### **62 Non-Government school must be registered**

An unregistered non-Government school must not be operated in the Territory.

*Note*

*The governing body must ensure compliance with the registration requirements and the conditions of the school's registration (see section 67).*

#### **62A Consequences of non-registration**

- (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.

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(2) The head teacher of an unregistered non-Government school commits an offence if:

- (a) the school is operated in the Territory; and
- (b) the head teacher knows the school:
  - (i) is an unregistered non-Government school; and
  - (ii) is operated in the Territory.

Maximum penalty: 20 penalty units.

**62B 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**

**63 Preliminary assessment**

(1) A person intending to apply for the registration of a non-Government school may ask the Chief Executive Officer:

- (a) to make a preliminary assessment of any of the following:
  - (i) the effects of the registration on the educational system in the Territory;
  - (ii) any other matter that may be relevant for the application; and
- (b) to indicate whether the application is likely to fail because of any adverse findings of that assessment.

(2) The Chief Executive Officer may make an assessment, and give an indication, as the Chief Executive Officer considers appropriate.

**63A Application for registration**

(1) A person may apply to the Chief Executive Officer for the registration of a non-Government school.

(2) The application must be in writing and accompanied by any fee prescribed by regulation.

(3) The application must be made at least one year before the school begins to provide educational programs.

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- (4) However, the Chief Executive Officer may reduce that period in appropriate cases.

**63B Matters to be addressed in application**

- (1) The application must set out the proposal for the school in relation to all of the following:
- (a) the composition of the governing body of the school (including information about each of its directors' skills and experience that is relevant to the proposal);
  - (b) how the governing body's philosophy and objects (including any particular cultural or religious interest connected with the philosophy or objects) and the school's educational programs will be consistent with the principles mentioned in section 61B;
  - (c) the school's methods of governance;
  - (d) a description of the following:
    - (i) the school's location and catchment area (including the population projections for the area and expected effects of the proposal on the existing schools in the area);
    - (ii) the school's educational programs and the year levels and number of its students;
  - (e) the school's facilities, any plans for their maintenance, renovation and expansion and related construction schedules;
  - (f) the insurance coverage for the school's facilities and for any liabilities that may arise from the conduct of its activities;
  - (g) the school's financial and other resources for its operation, the extent to which government financial assistance and other support will be sought, and whether or not the school will be operated for profit (see subsection (3));
  - (h) the school's business plans and budgets for the first 5 years of its operation (including projections of its capital and recurrent expenditure and sources of its income for each of the 5 years);
  - (i) the school's staff establishment (including its structure and size);
  - (j) the school's policy and procedures for ensuring:
    - (i) its staff are of good character; and

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- (ii) its teaching staff are registered with the Teacher Registration Board of the Northern Territory and maintain appropriate standards of professional competence;
  - (k) the school's curriculum and methods of student assessment;
  - (l) the school's procedures for financial management, performance management and accountability, including, for example, procedures for the following:
    - (i) the development and implementation of a strategic management plan;
    - (ii) the assessment of the school's performance against goals set out in the strategic management plan and against national benchmarks;
    - (iii) the keeping of financial and other records (including complying with the requirements in sections 67A and 67B);
    - (iv) the reporting on the school's performance to the community and Chief Executive Officer (including complying with the requirements in sections 67A, 67B and 67C);
  - (m) the school's policy in relation to the age of school entry for its students;
  - (n) the school's policy for the discipline of its students;
  - (o) the school's provision for meeting the needs of any of its students who has a disability;
  - (p) the school's policy and procedures for safeguarding the health, safety and wellbeing of its staff and students, including, for example, the following:
    - (i) an occupational health and safety manual for its staff;
    - (ii) procedures to ensure a criminal history report is obtained for each member of its staff;
    - (iii) a contingency plan for emergencies;
  - (q) the school's policy and procedures for dealing with complaints and disputes;

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- (r) the school's plan for maintaining a system of self audit in accordance with section 67D;
  - (s) any other matter, or a matter relating to a matter mentioned in any of the preceding paragraphs, prescribed by regulation.
- (2) Without limiting subsection (1), the application must demonstrate how the applicant proposes to ensure compliance with the registration requirements.
  - (3) In this Act, a non-Government school is ***not operated for profit*** if profits made from the operation of the school are used entirely to advance the school's philosophy and objects as stated by its governing body for the purposes of this Act.

**63C Notification to applicant**

- (1) The Chief Executive Officer must give written notice to the applicant of the receipt of the application as soon as practicable after the Chief Executive Officer is satisfied the application contains the information required by this Act.
- (2) The Chief Executive Officer must refer the application to the Panel as soon as practicable after giving the notice.

**63D Chief Executive Officer may ask for additional information**

- (1) The Chief Executive Officer may, by written notice to the applicant, ask the applicant to give further information relevant to the application within a reasonable period specified in the notice.
- (2) The Chief Executive Officer may do so whether or not the notice under section 63C has been given to the applicant.
- (3) The application lapses if the applicant fails to give the information within the specified period.

**Division 4 Registration Assessment Panel**

**64 Registration Assessment Panel**

- (1) The Registration Assessment Panel is established.
- (2) The Panel consists of:
  - (a) representatives of one or more Agencies as decided by the Minister; and
  - (b) representatives of the non-Government school sector as decided by the Minister.

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- (3) The members of the Panel are to be appointed by the Minister.
  - (4) A member of the Panel holds office on the conditions decided by the Minister.

**64A Panel's functions**

The Panel must:

- (a) review, and make recommendations to the Chief Executive Officer on, all applications for the registration or variation of the registration of a non-Government school referred to it by the Chief Executive Officer; and
- (b) do so within a reasonable period specified by the Chief Executive Officer.

**64B Advertisement of application**

- (1) When an application is referred to the Panel, the Panel must publish 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 Panel must:
  - (a) provide the applicant with copies of submissions made in response to the invitation; and
  - (b) allow the applicant a reasonable opportunity to respond to the submissions.

**64C Matters to be considered for application**

In reviewing the application, the Panel must have regard to:

- (a) the applicant's capacity to comply with the registration requirements and any other requirements under a law of the Territory in relation to the proposal; and
- (b) the effects of the proposal contained in the application on the educational system in the Territory and on the existing schools in the school's catchment area; and
- (c) the level of community support for the proposal and public comments on, or criticisms of, the proposal; and

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- (d) the impact of the proposal on government infrastructure, services and resources; and
  - (e) any other matter, or a matter relating to a matter mentioned in any of the preceding paragraphs, prescribed by regulation.

## **Division 5      Chief Executive Officer's power in relation to application**

### **65      Chief Executive Officer's decision**

- (1) The Chief Executive Officer must, within 9 months after giving notice under section 63C for 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 Chief Executive Officer must do so having regard to:
  - (a) the matters mentioned in section 64C; and
  - (b) the recommendation of the Panel in relation to the application; and
  - (c) any other matters the Chief Executive Officer considers relevant to the application.
- (3) The Chief Executive Officer must, by notice to the applicant, give written reasons for the Chief Executive Officer's decision on the application.
- (4) On the registration of a non-Government school, the Chief Executive Officer must issue a certificate of registration for the school.
- (5) The certificate of registration must contain information as decided by the Chief Executive Officer.

### **65A      Imposition of conditions of registration**

In registering a non-Government school, the Chief Executive Officer must impose conditions of the registration, specifying:

- (a) the educational programs the school is authorised to provide; and
- (b) the year levels of the school's students; and

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- (c) any other matters decided by the Chief Executive Officer.

**65B Lapse of registration**

The registration of a non-Government school lapses if the school does not commence operations within 2 years after the registration takes effect.

**Division 6 Financial assistance and other support**

**66 Provision of financial assistance and other support**

- (1) Subject to the Minister's directions and subsection (3), the Chief Executive Officer 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 the support from, the school.

*Example for subsection (1)(b)*

*The Chief Executive Officer 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 conditions decided by the Chief Executive Officer.
- (3) Government financial assistance may be provided for a non-Government school only if it is not operated for profit.
- (4) The Chief Executive Officer may at any time require the governing body of a non-Government school to report on its use of any government financial assistance and other support.

**Division 7 Operation of registered non-Government schools**

**67 Compliance with registration requirements and conditions of registration**

The governing body of a registered non-Government school must ensure compliance with the registration requirements, and conditions of the school's registration, for the school.

**67A Student records and reports**

- (1) The governing body of a registered non-Government school must ensure records containing information prescribed by regulation about each student enrolled at the school are kept at the school.



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- (2) In addition, the governing body must ensure a report about the 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 – by the time prescribed by the regulation.
- (3) A report under subsection (2) 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 Chief Executive Officer or regulation; and
  - (b) for a report mentioned in subsection (2)(b) – the information prescribed by regulation.
- (4) The governing body must comply with subsections (1) to (3).
- Maximum penalty: 100 penalty units.
- (5) An offence against subsection (4) is a regulatory offence.

**67B 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 Chief Executive Officer in accordance with subsection (2) for each calendar year during which the school is registered.
- Maximum penalty: 100 penalty units.
- (2) 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 Chief Executive Officer; and

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- (b) must comply with:
    - (i) any requirements applicable to the governing body under the law governing its incorporation (including, for example, the Corporations Act 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 Chief Executive Officer; and
  - (c) must be given to the Chief Executive Officer within:
    - (i) 4 months after the end of that year; or
    - (ii) a longer period allowed by the Chief Executive Officer.
- (3) An offence against subsection (1) is a regulatory offence.

**67C Annual report**

- (1) The governing body of a registered non-Government school must give an annual report for the school to the Chief Executive Officer in accordance with subsections (2) and (3) for each calendar year during which the school is registered.

Maximum penalty: 100 penalty units.

- (2) The report must include:
- (a) the following information in relation to that year:
    - (i) an assessment of the school's performance and its relationship with the parents of its students and the community;
    - (ii) details of major events concerning the school (including, for example, events involving occupational 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 current staff of the school; and

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- (b) a matter relating to paragraph (a), or any other matter, prescribed by regulation.
  - (3) The Governing body must give the annual report to the Chief Executive Officer within:
    - (a) 4 months after the end of the year; or
    - (b) a longer period allowed by the Chief Executive Officer.
  - (4) An offence against subsection (1) is a regulatory offence.

**67D Annual self audit**

- (1) A registered non-Government school must:
  - (a) maintain a system of self audit approved by the Chief Executive Officer for the purpose of:
    - (i) monitoring the school's compliance with the registration requirements and the conditions of its registration; and
    - (ii) monitoring the success of the school's educational programs; and
  - (b) ensure a self audit of the school is conducted for the school in accordance with the approved system for each calendar year.
- (2) An approved system of self audit must comply with the requirements of the Chief Executive Officer.
- (3) The governing body of a non-Government school must, at the Chief Executive Officer's request, give the results of an audit conducted under the approved system to the Chief Executive Officer.

**Division 8 Assessment and investigation**

**68 Appointment of assessors**

- (1) The Chief Executive Officer may appoint assessors on conditions decided by the Chief Executive Officer.
- (2) Without limiting subsection (1), the conditions may:
  - (a) provide that the assessor's authority relates to conducting routine assessments or special investigations for non-Government schools generally; or

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- (b) limit the assessor's authority to conducting a particular routine assessment or special investigation, or a particular aspect of a routine assessment or special investigation.
- (3) An employee, officer or member of an organisation that operates or manages system schools may be appointed as an assessor for one or more of those schools.
  - (4) In order to facilitate the appointment of assessors, the Minister may:
    - (a) establish and maintain a panel of nominees for appointment; and
    - (b) invite nominations to the panel from non-Government schools on a basis that will provide a fair representation of the non-Government school sector; and
    - (c) direct the Chief Executive Officer to make appointments, or a specified proportion of appointments, from among the members of the panel.

**68A Routine assessment and special investigation**

- (1) The Chief Executive Officer must establish a program 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 program at least once every 5 years for each non-Government school.
- (3) The Chief Executive Officer may, at any time, authorise a special investigation into a suspected non-compliance of the registration requirements in relation to a non-Government school or a condition of the registration of the school.
- (4) The Chief Executive Officer must direct one or more assessors to carry out the routine assessment or special investigation as provided by the assessor's conditions of appointment.

**68B Assessor's powers**

- (1) An assessor may enter a registered non-Government school for the purposes of carrying out a routine assessment or special investigation.
- (2) An assessor must, at least 5 business days before entering the school for subsection (1), give the governing body of the school written notice of the proposed entry.

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- (3) However, the assessor may enter a non-Government school for a special investigation without any written notice under subsection (2) if the assessor thinks it 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 information the assessor reasonably requires for a routine assessment or special investigation; and
    - (b) produce documents relevant to a routine assessment or special investigation; and
    - (c) provide other cooperation and assistance the assessor reasonably requires for a routine assessment or special investigation.

Maximum penalty: 20 penalty units.

#### **68C Assessor's report**

- (1) An assessor must, after completing a routine assessment or special investigation for a non-Government school:
  - (a) prepare a draft report on the 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 in relation to the draft report within a reasonable time that is specified in the notice.
- (2) The assessor must, having regard to any comment given by the governing body of the school within the specified time, prepare the final report on the routine assessment or special investigation.
- (3) The assessor must give the final report to the Chief Executive Officer:
  - (a) for a routine assessment – within one month (or a longer period allowed by the Chief Executive Officer) after completing the assessment; and
  - (b) for a special investigation – within 7 days (or a longer period allowed by the Chief Executive Officer) after completing the investigation.

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- (4) The Chief Executive Officer must, as soon as practicable after receiving the final report, give a copy of it to the governing body of the school.

**68D Identity card**

- (1) When exercising a power or performing a function under this Act, an assessor must carry an identity card provided by the Chief Executive Officer that:
- (a) states the name and office of the assessor; and
  - (b) includes:
    - (i) the signature of the assessor; and
    - (ii) a photograph of the assessor; and
    - (iii) the verification of the signature and photograph by the Chief Executive Officer.

- (2) A person who ceases to be an assessor must return the identity card to the Chief Executive Officer within 2 weeks after the cessation.

Maximum penalty: 20 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.
- (4) An offence against subsection (2) is a regulatory offence.
- (5) If an assessor requires a person to do a thing in relation to exercising a power under this Act and the person asks the assessor to produce his or her identity card:
- (a) the person is not required to do the thing until the assessor produces the card; and
  - (b) the assessor is authorised to exercise the power when the card is produced.

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**Division 9            Variation, suspension or cancellation of registration**

**68E            Variation, suspension or cancellation of registration by agreement**

The Chief Executive Officer may, by agreement with the governing body of a non-Government school:

- (a) vary the registration of the school; or
- (b) suspend the registration of the school; or
- (c) cancel the registration of the school.

**68F            Variation of registration by application**

- (1) The governing body of a non-Government school may, by written application to the Chief Executive Officer, request the Chief Executive Officer to vary the registration of the school.
- (2) The Chief Executive Officer may refer the application to the Panel if the Chief Executive Officer considers it is of sufficient significance to warrant the reference (for example, because it involves expanding 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 Chief Executive Officer refers the application to the Panel – Division 4.
- (4) The changes to the applied provisions are as follows:
  - (a) a reference in the applied provisions (other than section 63C(2)) to an application for the registration of a non-Government school is taken to be a reference to an application for the variation;
  - (b) section 63A(3) has effect as if it had required the application to be given to the Chief Executive Officer at least one year before the variation is to take effect;
  - (c) section 63B has effect as if:
    - (i) it had required the application to set out details of the variation and when and how the variation is to take effect; and

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- (ii) section 63B(1) had required the application to set out the extent to which the matters mentioned in that section would be affected by the variation;
  - (d) section 64C is taken to have effect as if it had required the Panel, in reviewing the application, to have regard to the matters set out in the section only to the extent to which they would be affected by the variation;
  - (e) section 65 has effect as if:
    - (i) the reference to registering the school in section 65(1)(a) were a reference to varying the registration of the school; and
    - (ii) the Chief Executive Officer may, under section 65(4) and (5), vary the certificate of registration of the school as the Chief Executive Officer considers appropriate (including, for example, by issuing a replacement certificate of registration);
  - (f) section 65A has effect as if it had provided that the Chief Executive Officer may impose conditions of the variation as the Chief Executive Officer appropriate;
  - (g) section 65B has effect as if it had 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.

**68G Variation, suspension or cancellation for breach of a registration requirement or condition of registration**

- (1) If the Chief Executive Officer is satisfied a breach of a registration requirement or a condition of the registration occurs in relation to a registered non-Government school, the Chief Executive Officer may:
  - (a) vary the registration of the school; or
  - (b) suspend the registration of the school; or
  - (c) cancel the registration of the school.
- (2) Before taking an action under subsection (1), the Chief Executive Officer must:
  - (a) notify the school's governing body of the proposed action and of its grounds; and



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- (b) allow the governing body a reasonable opportunity to make representations in relation to the proposed action within a reasonable time that is specified in the notice.

## **Division 10      Review**

### **68H      Reviewable decision**

- (1) Each of the following decisions by the Chief Executive Officer is a **reviewable decision**:
  - (a) a decision refusing an application for the registration of a non-Government school under section 65;
  - (b) a decision refusing an application for the variation of the registration of a non-Government school under section 68F;
  - (c) a decision to vary, suspend or cancel the registration of non-Government school under section 68G.
- (2) The following (an **applicant**) may, in writing, apply to the Minister 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.
- (4) The Minister may, by written notice, require the applicant to give further information relevant to the application within a reasonable period specified in the notice.
- (5) The application lapses if the applicant fails to give the information within the specified period.

### **68J      Deciding review**

- (1) The Minister must allow the applicant and Chief Executive Officer a reasonable opportunity to make written representations to the Minister in relation to the review.

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- (2) The Minister:
    - (a) must have regard to the representation in considering the application; and
    - (b) may otherwise consider the application in any way the Minister considers appropriate; and
    - (c) after considering the application, must confirm, vary or revoke the reviewable decision.
  - (3) The review does not affect the operation or implementation of the reviewable decision.
  - (4) However, the Minister may make another decision staying or otherwise affecting the operation or implementation of so much of the reviewable decision as the Minister considers appropriate to effectively decide the application.
  - (5) The other decision:
    - (a) is subject to the conditions specified by the Minister; and
    - (b) has effect:
      - (i) for the period specified by the Minister; and
      - (ii) if no period is specified by the Minister – until the application is decided.
  - (6) The Minister must give a written notice of the Minister's decision to the applicant specifying the reasons for the decision.

## **Division 11      Other matters**

### **68K      Register of non-Government schools**

- (1) The Chief Executive Officer 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 as decided by the Chief Executive Officer.
- (4) The Chief Executive Officer may provide copies of, or extracts from, entries in the register for a reasonable fee decided by the Chief Executive Officer.

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**68L Confidential information**

A person who is, or has been, engaged in duties related to the administration of this Part must not disclose information of a confidential nature coming to the person's attention in the course of those duties except:

- (a) in the ordinary course of carrying out official functions; or
- (b) as authorised or required by the Minister or Chief Executive Officer; or
- (c) as authorised or required by the person in whose favour the duty of confidentiality exists; or
- (d) as otherwise authorised or required by a law in force in the Territory.

Maximum penalty: 200 penalty units.

**68M 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 a regulatory offence.

**68N Misleading information**

- (1) An applicant for the registration, or variation of the registration, of a non-Government school must not give misleading information, knowing it to be misleading, in or in connection with the application.

Maximum penalty: 50 penalty units.

- (2) In this section:

***misleading information*** means information that is misleading in a material particular because it:

- (a) does not include relevant information; or
- (b) includes false information.

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**10        New Part 12**

After section 76

*insert*

**Part 12                    Transitional matters for Education Amendment  
(Non-Government Schools) Act 2009**

**77        Definition**

In this Part:

***amending Act*** means the *Education Amendment  
(Non-Government Schools) Act 2009*.

**78        Existing registered non-Government schools**

- (1) A non-Government school whose registration under this Act was in force immediately before the commencement of the amending Act is taken to be registered under Part 7 as from the commencement of that Act.
- (2) A condition for the registration of the school in force immediately before that commencement is taken to be a condition for the school's registration under Part 7 for subsection (1).

**79        Routine assessment**

The Chief Executive Officer must, on and after the commencement of the amending Act, ensure a routine assessment will be carried out in each registered non-Government school in accordance with section 68A in a way that is timely and orderly.