



## NORTHERN TERRITORY OF AUSTRALIA

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No. 36 of 1984

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### AN ACT

To amend the *Education Act*

[Assented to 20 July 1984]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Education Amendment Act (No. 2) 1984*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Education Act* is in this Act referred to as the Principal Act.

4. SECRETARY OF DEPARTMENT OF EDUCATION

Section 8(2) of the Principal Act is amended by inserting after "this Act" the words "(other than Part VII)".

5. REPEAL AND SUBSTITUTION

Section 21 of the Principal Act is repealed and the following substituted:

"21. COMPULSORY EDUCATION

"(1) Subject to sub-section (3), a parent who has the actual custody of a child of compulsory school age -

(a) shall enrol the child in -

(i) a Government school; or

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(ii) a non-Government school which is a registered educational institution within the meaning of Part VII; or

(b) may provide education for the child which is efficient and suitable.

Penalty: \$200.

"(2) For the purposes of sub-section (1)(b) -

(a) the parent shall obtain the consent in writing of the Secretary before providing such education for the child; and

(b) whether such education is efficient and suitable or not shall be a matter for the decision of the Secretary who may, if he thinks fit, obtain a report on the education by a person authorized by him in writing to do so.

"(3) Sub-section (1) does not apply to or in relation to a child for whom special arrangements under Part V have been made for the education of the child and the child is complying with those arrangements."

6. REPEAL AND SUBSTITUTION

Part VII of the Principal Act is repealed and the following substituted:

"PART VII - NON-GOVERNMENT EDUCATIONAL INSTITUTIONS

*"Division 1 - Definitions*

"61. DEFINITIONS

"For the purposes of this Part -

'authorized' means authorized by the Secretary;

'educational institution' means -

(a) a non-Government school;

(b) a pre-school, other than a pre-school wholly established and wholly maintained by the Minister; or

(c) a post-school institution, other than the Darwin Community College constituted under section 41 or a post-school institution wholly established and wholly maintained by the Minister;

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'prescribed requirements', in relation to a registered educational institution or class of registered educational institutions, means the requirements prescribed as the requirements under which the institution or class of institutions shall operate;

'public officer', in relation to an educational institution, means the person referred to in section 63(1)(h) nominated by the institution for the service of notices under this Act;

'registered' means registered under section 64(1)(a);

'students' includes children.

*"Division 2 - Registration, &c., of Educational Institutions"*

"62. APPLICATION FOR REGISTRATION OF EDUCATIONAL INSTITUTION

"(1) Subject to this Part, the person who has the management or control of the affairs of an educational institution may apply to the Secretary for registration of the institution.

"(2) Where, in relation to an educational institution, there is more than one person of a description referred to in sub-section (1), a person, authorized by a resolution of the governing authority of the institution, may make an application under that sub-section.

"63. FORM OF APPLICATION

"(1) An application under section 62(1) for registration of an educational institution shall be in writing and shall contain particulars of -

- (a) the name and address of the institution;
- (b) the method of management of the affairs of the institution;
- (c) the minimum educational qualifications of teachers or lecturers to be employed at the institution;
- (d) the curriculum in accordance with which instruction is to be provided at the institution;
- (e) the maximum and minimum ages of and the maximum number of students to be enrolled at the institution;
- (f) the buildings and facilities to be used by or available to the institution;

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- (g) its financial position at the time of the application and the means by which it is proposed to finance the continued operation of the institution; and
- (h) the name and designation of a person nominated by the institution for the service of notices under this Act.

"(2) An applicant shall furnish to the Secretary such further particulars of the matters referred to in sub-section (1) as the Secretary specifies in a written request delivered to the applicant.

"64. DETERMINATION OF APPLICATION

"(1) Subject to this Part, the Secretary may, by notice in writing delivered to the applicant, determine an application under section 62(1) for registration of an educational institution by -

- (a) registering the institution; or
- (b) refusing to register the institution.

"(2) Subject to section 66, the Secretary may register an educational institution subject to such conditions (which may include a condition expressing a limited period for the registration), if any, as are specified in the notice referred to in sub-section (1) which relates to the institution.

"(3) The Secretary shall not register an educational institution unless he is satisfied that the institution shall be operating, upon its registration, in accordance with the prescribed requirements or so much of the prescribed requirements as are applicable to it.

"(4) Where the Secretary refuses to register an educational institution or registers an educational institution subject to conditions, the Secretary shall, in the notice referred to in sub-section (1) which relates to the institution, set out details of the reasons for the refusal or the imposition of the conditions.

"65. CANCELLATION, &c., OF REGISTRATION

"(1) The Secretary may, on an application made to him in writing by the public officer of a registered educational institution -

- (a) cancel;
- (b) suspend, for the period specified in the application; or
- (c) vary, in the manner specified in the application, a condition of,

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the registration of the institution by notice in writing delivered to the public officer.

"(2) Where the Secretary is of the opinion that a registered educational institution is not operating in accordance with the prescribed requirements or so much of the prescribed requirements as are applicable to it, he may, by notice in writing delivered to the public officer of the institution, require the public officer to show cause why -

- (a) the registration of the institution should not be -
  - (i) cancelled; or
  - (ii) suspended for the period specified in the notice;
- (b) a condition of the registration of the institution should not be varied in the manner specified in the notice; or
- (c) the registration of the institution should not be subject to a condition specified in the notice.

"(3) Subject to section 66, the Secretary may, not less than 3 months after the date of delivery of a notice under sub-section (2), by notice in writing delivered to the public officer of the educational institution which is the subject of the first-mentioned notice -

- (a) cancel the registration of the institution;
- (b) suspend the registration of the institution for the period specified in the first-mentioned notice;
- (c) vary a condition of the registration of the institution in the manner specified in the first-mentioned notice; or
- (d) impose a condition on the registration of the institution in the manner specified in the first-mentioned notice.

"(4) For the purposes of sub-section (3), the Secretary may take into account a report referred to in section 67(2) made in relation to an educational institution referred to in that sub-section.

"(5) Subject to section 68(4), the cancellation or suspension under sub-section (1) or (3) of the registration of an educational institution, or the variation under sub-section (1) or imposition under sub-section (3) of a condition of such registration, shall have effect on and from such date as the Secretary specifies in the

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notice delivered under sub-section (1) or (3), as the case may be, which relates to the institution.

"66. SECRETARY NOT TO CANCEL, &c., REGISTRATION IN CERTAIN CIRCUMSTANCES

"The Secretary -

- (a) shall not refuse to register an educational institution;
- (b) shall not cancel, under section 65(3)(a), or suspend, under section 65(3)(b), the registration of an educational institution; or
- (c) shall not impose, under section 64(2) or 65(3)(d), a condition on, or vary, under section 65(3)(c), a condition of, the registration of an educational institution,

if the educational institution -

- (d) in relation to registering an educational institution - will, upon its registration, be operating in accordance with the prescribed requirements or so much of the prescribed requirements as are applicable to it; and
- (e) in any other case - is operating in accordance with the prescribed requirements or so much of the prescribed requirements as are applicable to it.

*"Division 3 - Visits*

"67. VISITS BY AUTHORIZED PERSONS

"(1) The Secretary -

- (a) shall, not less than once a year; and
- (b) may, at such times as he thinks fit (including at the request of the governing authority or head teacher of a registered educational institution),

cause a registered educational institution to be visited by an authorized person for the purpose of -

- (c) determining whether the institution is operating in accordance with the prescribed requirements or so much of the prescribed requirements as are applicable to it; and
- (d) where the visit by the authorized person is at the request of the governing authority or head teacher of the institution - advising the governing authority or head teacher in relation

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to matters connected with the administration of the institution.

"(2) An authorized person who visits for the purpose referred to in sub-section (1)(c) a registered educational institution shall, as soon as practicable after the visit, submit to the Secretary a report on whether the institution is operating in accordance with the prescribed requirements or so much of the prescribed requirements as are applicable to it, and the Secretary shall, as soon as practicable after receiving the report, furnish a copy of it to the public officer of the institution.

"(3) The Secretary may, at the request of the governing authority or head teacher of a registered educational institution, cause the institution to be visited by a medical practitioner, nurse, dentist or dental therapist for the purpose of medical or dental examination of the students who attend the institution or for the purpose of advising the governing authority or head teacher of the institution on any matter relating to the health or welfare of the students enrolled at the institution.

*"Division 4 - Appeals*

*"68. APPEAL TO MINISTER*

"(1) An applicant for registration of an educational institution who is dissatisfied with a determination under section 64(1) of the Secretary may appeal to the Minister.

"(2) The public officer of a registered educational institution who is dissatisfied with a decision under section 65(1) or (3) of the Secretary may appeal to the Minister.

"(3) A person intending to appeal under sub-section (1) or (2) shall, not later than 28 days after the day on which he receives the notice referred to in section 64(1) or 65(1) or (3), as the case may be, serve on or post to the Minister and the Secretary a notice in writing of his intention to appeal.

"(4) The making of an appeal under this section operates as a stay of action to implement the decision which is the subject of the appeal.

"(5) The Minister may determine an appeal under this section by -

- (a) affirming, setting aside or varying the decision of the Secretary; and
- (b) making such other order as he thinks fit.

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*"Division 5 - Miscellaneous*

"68A. OFFENCE TO MANAGE, &c., INSTITUTION WHICH IS NOT REGISTERED

"A person who has the management or control of the affairs of an educational institution, established for the purpose of providing or offering to provide courses of instruction in primary or secondary education to a child of compulsory school age, which is not registered, is guilty of an offence.

Penalty: \$2,000.

"68B. SECRETARY MAY EXEMPT, &c., EDUCATIONAL INSTITUTIONS FROM OPERATING IN ACCORDANCE WITH PRESCRIBED REQUIREMENTS

"The Secretary may, by instrument in writing, exempt, upon such conditions as he thinks fit -

(a) an educational institution; or

(b) a class of educational institutions,

from operating in accordance with the prescribed requirements specified in the instrument and, where such an exemption is made, the educational institution, or an educational institution of the class of educational institutions, the subject of the exemption is, accordingly, exempted.

"68C. RECORDS

"(1) The head teacher of a registered educational institution shall keep such records in relation to the attendance and the educational performance of students enrolled at the institution as are prescribed or as the Secretary determines.

"(2) The head teacher of a registered educational institution shall furnish the Secretary with such returns in relation to the attendance and the educational performance of students enrolled at the institution and at such times as are prescribed or as the Secretary determines.

Penalty: \$200."

7. REGULATIONS

Section 75 of the Principal Act is amended by omitting sub-section (2) and substituting the following:

"(2) Without limiting the generality of sub-section (1), the Regulations may -



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- (a) make provision for and in relation to the requirements under which an educational institution within the meaning of Part VII registered under that Part shall operate and, without limiting the generality of those requirements, may make provision for and in relation to -
  - (i) the minimum educational qualifications of teachers or lecturers to be employed at;
  - (ii) the minimum curriculum requirements in accordance with which instruction is to be provided at;
  - (iii) the maximum and minimum ages of and the maximum numbers of students to be enrolled at;
  - (iv) the buildings and facilities to be used by or available to; and
  - (v) the records to be kept by,such an educational institution or class of such educational institutions; and
- (b) provide for penalties not exceeding \$200 for offences against the Regulations."

8. SAVINGS AND TRANSITIONAL

(1) Notwithstanding the repeal effected by section 6 but subject to this section, an educational institution referred to in section 61(1) of the Principal Act as in force immediately before the commencement of this Act, which was, immediately before that commencement, registered under section 63(1)(a) of the Principal Act as then in force shall, on and from that commencement, continue to be so registered, upon such of the conditions as were applicable to it immediately before that commencement as are not inconsistent with the Principal Act, as amended by this Act, and the Regulations, as if it had, on that commencement, been registered under Part VII of the Principal Act as amended by this Act.

(2) An action taken under section 64, or an appeal made under section 66, of the Principal Act as in force immediately before the commencement of this Act, and not fully disposed of before that commencement, may continue to be -

- (a) in the case of the action, subject to an appeal made by virtue of sub-section (3) in relation to that action - carried out; and

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(b) in the case of the appeal - proceeded with, as if this Act had never commenced but, after that action or appeal is fully disposed of, sub-section (1) shall apply to and in relation to the educational institution referred to in section 61(1) of the Principal Act as then in force and the subject of that action or appeal, as the case may be, as if that action or appeal had been fully disposed of before that commencement.

(3) Where, in respect of a decision referred to in section 66(1) or (2) of the Principal Act as in force immediately before the commencement of this Act, the period specified in section 66(3) of the Principal Act as then in force for lodging an appeal under section 66(1) or (2), as the case may be, of the Principal Act as then in force against the decision had not, on that commencement, expired then, notwithstanding the repeal effected by section 6, such an appeal may still be made but, in any case, not later than the last day of the unexpired portion of that period, as if this Act had never commenced and, where such an appeal is made, it shall, for the purposes of sub-section (2), be deemed to be an appeal first-mentioned in that sub-section.

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