



NORTHERN TERRITORY OF AUSTRALIA

No. 95 of 1982

AN ACT

To amend the *Education Act*

[Assented to 15 December 1982]

BE 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 1982*.

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. NEW SECTION

The Principal Act is amended by inserting after section 9 the following:

"9A. DELEGATION BY MINISTER

"(1) The Minister may, by instrument in writing, delegate to a person any of his powers and functions under this Act, other than this power of delegation.

"(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purpose of this Act, be deemed to have been exercised or performed by the Minister.

"(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister."

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5. RULES

Section 58 of the Principal Act is amended by omitting sub-sections (2) to (6) inclusive.

6. REPEAL AND SUBSTITUTION

Part IX of the Principal Act is repealed and the following substituted:

"PART IX - SCHOOL COUNCILS

"70. INTERPRETATION

"(1) In this Part, unless the contrary intention appears, 'school council' means a school council established under section 71(1) by the Minister.

"(2) Unless express provision is made to the contrary in this Act or the Regulations, the *Financial Administration and Audit Act* shall not apply to or in relation to a school council.

"71. ESTABLISHMENT OF SCHOOL COUNCILS

"(1) Subject to sub-section (2), the Minister may, at the request of an interested body -

- (a) involved in the management of a Government school; or
- (b) from the community served by a Government school,

by notice in the *Gazette*, establish a school council for the Government school.

"(2) The Minister shall not establish under sub-section (1) a school council unless he is satisfied that the school council shall be operating, upon its establishment under that sub-section, under and in accordance with this Part.

"(3) A school council shall consist of such members as are prescribed.

"(4) The members of a school council shall hold office upon such terms and conditions as are prescribed.

"71A. RESTRICTIONS ON SCHOOL COUNCILS

"(1) Subject to sub-section (2), a school council shall -

- (a) be constituted in accordance with the Regulations;

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- (b) comply with the terms of reference, if any, determined under section 71D(2) for the school council; and
- (c) adopt the guidelines, if any, prepared and published under section 71J(1).

"(2) The Minister may, in his discretion, upon such terms and conditions as he thinks fit, exempt a school council from the requirements of sub-section (1)(c).

"71B. INCORPORATION OF SCHOOL COUNCILS

"(1) A school council shall be -

- (a) a body corporate with perpetual succession and a common seal; and
- (b) capable, in its corporate name, of -
 - (i) acquiring, holding and disposing of real and personal property; and
 - (ii) suing and being sued.

"(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of a school council affixed to a document and shall presume that it was duly affixed.

"71C. FUNCTIONS OF SCHOOL COUNCILS

"(1) A school council may, in respect of the Government school for which it is established -

- (a) examine the manner in which the educational policies of the Territory are to be implemented at that Government school and, to this end, to advise the head teacher accordingly;
- (b) inquire into and identify the particular educational needs of the community served by that Government school and advise the Secretary of those needs;
- (c) consider and advise the head teacher and Secretary on initiatives in community education and, in particular, on means for improving links between that Government school, parent organizations, other associations and the community in general;

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- (d) assess, from time to time, the needs of that Government school in relation to buildings and facilities, equipment, and needs of students and teachers and other staff and make recommendations to the Secretary with respect to the provision of those needs;
- (e) within the scope allowed by the functions and powers conferred or imposed upon it, determine the purposes for which moneys allocated by the Department of Education to that Government school are to be expended and to expend those funds accordingly;
- (f) determine and regulate the conduct of activities for the benefit of the local community served by that Government school at any time when that Government school's buildings or grounds are not required for their usual purposes;
- (g) exercise a general oversight of the buildings and grounds of that Government school, including, with the consent of the Secretary, supervising the conduct of work being carried out to or in relation to those buildings or grounds, upon such terms and conditions as are approved in writing by the Secretary;
- (h) supervise the manner in which prescribed services are being rendered for that Government school;
- (j) advise the Secretary in relation to the job description for the position of head teacher;
- (k) advise the head teacher in relation to the job descriptions for teaching and ancillary staff;
- (m) employ, with the consent of the Secretary, such persons, other than a person who is an employee within the meaning of the *Public Service Act* or an employee or officer within the meaning of the *Teaching Service Act*, as the school council thinks fit, upon such terms and conditions as is approved in writing by the Secretary;
- (n) carry out such activities as are approved by the Secretary for the purpose of raising funds to be expended on or in relation to that Government school and to expend such funds accordingly; and
- (p) perform such other functions as the Minister, by instrument in writing, confers upon the school council.

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"(2) The Minister may enter into discussions with a school council and give such directions as he thinks fit regarding the manner in which the functions of the school council are to be performed.

"(3) In the performance of its functions, a school council shall comply with the directions, if any, given under sub-section (2) by the Minister and applicable to that school council.

"71D. POWERS OF SCHOOL COUNCILS AND TERMS OF REFERENCE

"(1) A school council has power to do such things as are necessary or convenient to be done for, or in connection with, the performance of its functions.

"(2) The Minister may, in respect of a school council, by instrument in writing, determine terms of reference for the school council.

"71E. POWER TO ENTER INTO AGREEMENTS

"Without limiting the generality of section 71D(2), the Minister may, in determining under that section the terms of reference for a school council, determine that the school council shall not, except with the approval in writing of the Minister, enter into an agreement involving the payment by that school council of an amount in excess of an amount specified in that determination by the Minister.

"71F. POWER TO MAKE GRANTS

"The Minister may, upon such terms and conditions as he thinks fit, make a grant of money to a school council.

"71G. MONEYS OF SCHOOL COUNCIL

"The moneys of a school council consist of -

- (a) moneys allocated by the Department of Education to the Government school in respect of which the school council is established;
- (b) moneys raised in pursuance of section 71C(1)(n) by the school council; and
- (c) moneys granted under section 71F to the school council.

"71H. ACCOUNTS

"(1) A school council shall cause accounts to be kept in the prescribed manner, or in such manner not inconsistent with the Regulations as is specified in

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writing by the Secretary acting with the advice of the Treasurer, of any moneys received by it and any dealings with those moneys.

"(2) The Secretary, or a person authorized in writing for that purpose by the Secretary, may, at any time, inspect or audit the accounts of a school council.

"71J. GUIDELINES

"(1) The Minister may cause to be prepared and published for the guidance of school councils, guidelines, not inconsistent with this Act, for or in relation to the exercise of powers and the performance of functions conferred or imposed by this Act upon school councils.

"(2) Without limiting the generality of sub-section (1), guidelines prepared and published in accordance with that sub-section may be made for and in relation to such matters as -

- (a) regulating the constitution or establishment of committees to be affiliated with a school council for the purposes of aiding the school council in the exercise of its powers and the performance of its functions;
- (b) regulating the calling of meetings of school councils and of affiliated committees of school councils and of meetings of citizens and teachers;
- (c) regulating proceedings and voting at meetings of school councils, affiliated committees of school councils and meetings of citizens and teachers;
- (d) regulating a school council's provision of meals or refreshments for the staff or students of the Government school for which it is established and the charges it may make therefor;
- (e) regulating, subject to section 71H, the manner in which a school council shall cause proper accounts to be kept of any moneys received by it and dealings with those moneys and of the auditing of those accounts;
- (f) prohibiting a school council, or a member of a school council when acting in that capacity, from giving instructions to teachers concerning their professional duties;
- (g) prohibiting, except with the approval of the Secretary in each particular case, a member of a school council from being financially

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interested, either directly or indirectly, in works or services executed or rendered for the Government school for which it is established and authorized by the school council; and

- (h) regulating the conduct of inquiries and investigations into complaints against teachers, including the head teacher.

"71K. ABOLITION OF SCHOOL COUNCIL

"(1) The Minister may, in respect of a school council, where -

- (a) the Government school for which the school council is established is closed;
- (b) the school council so requests; or
- (c) in the opinion of the Minister, the school council is not complying with the requirements of this Act in so far as those requirements are applicable to that school council,

by instrument in writing, abolish that school council.

"(2) Subject to sub-section (3), the money, books, records and property of a school council abolished under sub-section (1), and of a Government school referred to in sub-section (1)(a), shall be forwarded, as directed by the Minister, by the person or persons having custody thereof and the Minister may apply any such money, books or property for the purposes of any Government school or school council.

"(3) The school council for a Government school referred to in sub-section (1)(a) may direct that, upon its abolition, money, books and property belonging to that school council be given to the Minister for the benefit of a specified Government school, or to a specified school council, and that money, books and property shall, accordingly, be used by the Minister for the benefit of the specified Government school, or become the money, books and property of the specified school council, as the case may be."

7. TRANSITIONAL AND SAVINGS

Section 76 of the Principal Act is amended by omitting sub-section (3).

8. SAVINGS

Notwithstanding the repeal effected by section 6 or the amendment effected by section 7, and unless or until the Minister otherwise determines -

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- (a) a council constituted under section 70 of the Principal Act as in force immediately before the commencement of this Act and in existence immediately before that commencement; and
- (b) a school committee referred to in, and continued in existence under, section 76(3) of the Principal Act as in force immediately before the commencement of this Act and in existence immediately before that commencement,

shall, upon the commencement of this Act, continue in existence, upon the same terms and conditions and subject to the same restrictions as were applicable to the council or school committee, as the case may be, immediately before the commencement of this Act, as if this Act had never commenced.
