

TASMANIA

EDUCATION BILL 2016

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EDUCATION BILL 2016

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
13 October 2016

(Brought in by the Minister for Education and Training, the Honourable Jeremy Page Rockliff)

A BILL FOR

An Act to provide for and regulate education in Tasmania, to repeal, revoke and rescind certain Acts and statutory rules and for related purposes

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Education Act 2016*.

2. Commencement

- (1) Section 8 commences on 1 January 2020.
- (2) Section 9 commences on 1 January 2021.
- (3) The remaining provisions of this Act commence on 10 July 2017.

3. Objects of Act

The objects of this Act are –

- (a) to make available to each Tasmanian child a high-quality education that –
 - (i) helps maximise the child’s educational potential; and
 - (ii) provides the foundation to enable the child, throughout childhood and as an adult, to lead a fulfilling life and to contribute to the Tasmanian community; and
- (b) to provide for 13 years of compulsory education and training; and
- (c) to provide for access to pre-compulsory education; and
- (d) to provide for the operation, governance and monitoring of State schools; and
- (e) to provide for the operation, governance and monitoring of non-government schools; and
- (f) to provide for the registration and monitoring of home education.

4. Principles which are basis of Act

The principles on which this Act is based are the following principles:

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- (a) the right of every child to receive an education until the child completes Year 12;
- (b) that the State recognises the role and importance of a child's parents in the education of their child;
- (c) the importance of a child having the opportunity, and being encouraged, to be actively involved in decisions affecting the child's participation in education, having regard to the age and understanding of the child;
- (d) the importance of the State, parents, teachers, schools, other educational institutions (including TasTAFE and the University of Tasmania) and the wider community working collaboratively to engender a commitment in all sectors in Tasmania to achieving the best educational outcomes for children;
- (e) the importance of the provision by the State of universal access to education through the maintenance of a government education system;
- (f) the importance of providing the foundation for lifelong learning.

5. Interpretation

In this Act, unless the contrary intention appears –

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administrative authority, in relation to a school, means –

- (a) in relation to a State school, the Secretary; or
- (b) in relation to a registered individual school, the governing body of the school; or
- (c) in relation to a registered system school, the approved authority for the system of non-government schools of which the school is a member;

apprentice has the same meaning as in the *Training and Workforce Development Act 2013*;

approved authority means the approved authority for a system of registered non-government schools, within the meaning of section 146(1);

approved home education program means a proposed home education program that has been approved under section 69, as amended from time to time;

approved learning program means a learning program that is approved under section 29 or 84, as amended from time to time;

Australian Qualifications Framework means the national policy of that name for

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accredited qualifications in Australian education and training (including addenda to that policy added from time to time) that –

- (a) defines qualifications recognised nationally in education and training undertaken within Australia; and
- (b) is published by the Commonwealth government department having responsibilities in relation to education and training; and
- (c) took effect on 1 July 2011 –

as amended or substituted from time to time;

certificate of registration, in relation to a registered system of non-government schools or a registered individual school, means the certificate of registration issued under section 153 or 177;

child means a person who has not attained the age of 18 years;

compulsory conciliation conference means a conference referred to in section 41(b);

Compulsory Schooling Order has the meaning given by section 52;

conciliator includes mediator;

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corporal punishment means physical punishment by means of a cane, stick, strap, belt or hand or by any other means;

disability, in relation to a person, means a disability which –

- (a) is attributable to an intellectual, cognitive, neurological, psychiatric, sensory or physical impairment or a combination of those impairments; and
- (b) is permanent or likely to be permanent; and
- (c) results in –
 - (i) a substantially reduced capacity of the person for communication, learning or mobility; and
 - (ii) the need for continuing support services; and
- (d) may or may not be of a chronic episodic nature;

distance education means education provided to a school-aged child that is –

- (a) characterised by the separation of the teacher and child in time or place; and
- (b) provided by using a variety of methods of delivery;

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eligible capital expenditure means expenditure incurred for the educational or residential purposes of school students relating to –

- (a) the acquisition of land; and
- (b) the erection, alteration and extension of buildings; and
- (c) the installation of essential services;

eligible loan means a loan that is –

- (a) taken out wholly or partly for the purpose of eligible capital expenditure; and
- (b) repayable within a period of 20 years; and
- (c) repayable by principal and interest;

full-time employment has the same meaning as in the Australian Bureau of Statistics Labour Force Survey;

governing body means –

- (a) in relation to a registered school, the person or organisation that owns, manages or operates the registered school; or
- (b) in relation to a proposed new non-government school, the

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person or body that proposes to establish the new non-government school; or

(c) in relation to a State school, the Secretary;

home education means the education of a school-aged child or youth by a home educator in accordance with an approved home education program;

home education assessment means an assessment carried out by a registration officer for a purpose specified in section 86;

home educator means a parent named in an approved learning program as a parent who provides home education to his or her child under that program;

hostel means a facility for the residential accommodation of school students;

individual education program means a program authorised and supervised by a principal of a school that meets the individual educational needs of a child enrolled at that school;

individual non-government school means a non-government school which is not a member of a system of non-government schools;

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intake area, in relation to a State school,
means the area determined –

- (a) by the Minister under section 97 or 98 to be the intake area for that school; or
- (b) once the Secretary determines the intake area for the school under section 99(1), that intake area;

kindergarten means the year of education that –

- (a) immediately precedes the first year of compulsory education; and
- (b) is offered to children by a school;

learning program means –

- (a) education at a school; or
- (b) education through an individual education program; or
- (c) vocational education and training, within the meaning of the *Training and Workforce Development Act 2013*; or
- (d) an apprenticeship or traineeship under a training contract approved under section 32 of the *Training and Workforce Development Act 2013*; or

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- (e) education at a university; or
- (f) a combination of any approved learning programs referred to in paragraph (a), (b), (c), (d) and (e);

Ministerial instructions means instructions issued by the Minister under section 6;

new individual non-government school means a non-government school that, immediately before an application for registration of the school is made under Division 3 of Part 6, was not registered –

- (a) as a member of a system of non-government schools under Division 2 of Part 6; or
- (b) as an individual non-government school under Division 3 of Part 6 –

whether or not the school had previously been so registered;

non-government school means a school, other than a State school, that provides educational instruction at any level up to and including the final year of secondary education;

overseas student means a student who –

- (a) is a child; and
- (b) is not entitled to reside permanently in Australia; and

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- (c) is in Australia on a visa issued by the Commonwealth government specifically for the purpose of allowing the child to study in Australia;

parent includes –

- (a) a legal guardian of a child; and
- (b) another person who has the care, control or custody of a child; and
- (c) another person who generally acts in the place of a parent of a child and has done so for a significant length of time;

primary education means education at a school from the first year of compulsory education following kindergarten to the school year commonly known as Year 6 (inclusive);

principal means the individual in charge of the day-to-day operation of a school;

Principal Officer, Non-attendance means the person appointed as the Principal Officer, Non-attendance under section 215;

provider, in relation to an approved learning program, means any of the following persons who, under the program, are involved in providing the whole or any part of the program:

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- (a) a principal of a school;
- (b) TasTAFE;
- (c) another registered training organisation within the meaning of the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth;
- (d) an employer of an apprentice or trainee;
- (e) the University of Tasmania;
- (f) a university or other tertiary education institution of another jurisdiction;

registered individual school means a non-government school which is registered under Division 3 of Part 6;

registered school means –

- (a) a registered system school; or
- (b) a registered individual school; or
- (c) a campus of a school that is registered, managed or controlled by a school in another State or a Territory;

registered system of non-government schools means a system of non-government

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schools that is registered under section 150;

registered system school means a non-government school that is registered as a member of a registered system of non-government schools under Division 2 of Part 6;

Registrar means the person appointed as the Registrar, Education under section 218;

Registration Board means the Non-government Schools Registration Board established under section 229;

registration inspection means an inspection carried out in accordance with a request made by the Registration Board under section 186;

registration officer means a person appointed as a registration officer under section 228;

registration review means a review carried out in accordance with a request made by the Registration Board under section 182(1);

relevant record means any record, book, document, account or other information compiled, recorded or stored by any means, including a record relating to students, which is relevant to the approval, granting, making or determination of a grant or additional grant under section 203 or 206;

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Review Panel means the Review Panel established under section 234;

school means –

- (a) a State school; and
- (b) a centre, unit or institute of the State which provides educational instruction at any level up to, and including, the final year of secondary education; and
- (c) a registered school –

but does not include TasTAFE;

school-aged child means a child, other than an overseas student, who –

- (a) is required under section 11(1) to be enrolled at a school or provided with home education; or
- (b) would be required under section 11(1) to be enrolled at a school or provided with home education if not exempted under Part 3;

school association means a school association referred to in section 109 and established in accordance with the regulations;

school's relevant financial year means the financial year of an individual non-government school during which a grant

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or additional grant under section 203 or 206 was received by it;

school student means a school-aged child, youth or other person enrolled at a school;

secondary education means education at a school from the school year commonly known as Year 7 to the school year commonly known as Year 12 (inclusive);

Secretary means the Secretary of the Department;

senior secondary education means education at a school for the school years commonly known as Year 11 and Year 12;

statement of Year 10 completion means a statement issued to a person under section 90 on completion of Year 10 or under section 91 on completion of the year of home education equivalent to year 10;

State school means a school, including a college for senior secondary education –

- (a) established, or formed by the amalgamation of schools, under section 97; or
- (b) established, or formed by the amalgamation of schools, under the *Education Act 1994* or any

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other enactment that provided for the establishment of schools by the Crown;

student means a child, youth or person –

- (a) enrolled at a school; or
- (b) provided with home education; or
- (c) participating in an approved learning program;

support school means a school established by the Minister for the purpose of providing specialised, and personalised, teaching and learning programs for students with disability;

system of non-government schools means a system of non-government schools formed in accordance with section 145;

TasTAFE means TasTAFE created under section 56 of the *Training and Workforce Development Act 2013*;

trainee has the same meaning as in the *Training and Workforce Development Act 2013*;

transitioning non-government school means a non-government school that is referred to in section 155(6), section 156(4) or section 163(5);

University of Tasmania means the university continued under that name under section

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4 of the *University of Tasmania Act 1992*;

vocational education and training has the same meaning as in the *Training and Workforce Development Act 2013*;

Year 10 means the school year of secondary education commonly known as Year 10;

Year 12 means the school year of secondary education commonly known as Year 12;

Year 12 completion certificate means a certificate issued to a person under section 92 on completion of Year 12 or under section 93 on completion of the year of home education equivalent to year 12;

youth means a child, other than an overseas student, who –

- (a) is required under section 24 to participate in an approved learning program or be home educated; or
- (b) would be required under section 24 to participate in an approved learning program or be home educated if not exempted under Part 3.

6. Ministerial instructions

- (1) In this section –

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specified means specified in the Ministerial instructions.

- (2) The Minister may issue instructions, in writing, in relation to the guidelines, principles, practices and procedures to be observed by the Secretary, the Registrar, principals, schools, parents and children in relation to –
- (a) enrolment at school, including the enrolment of a child who is not yet a school-aged child; and
 - (b) attendance at schools and approved programs; and
 - (c) the management of the non-attendance of a child at a school; and
 - (d) the approval of, and the revocation of the approval of, any person as a conciliator for the purposes of convening and facilitating compulsory conciliation conferences; and
 - (e) any matter concerning the registration of a home educator, the approval of a home education program or the continuing assessment of a home educator or an approved home education program; and
 - (f) any matter concerning the registration of a system of non-government schools or a non-government school and the processes to be followed by the Registration Board in complying with this Act or any other Act; and

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- (g) such other matters relating to the purposes and administration of this Act as the Minister considers appropriate.
- (3) Before issuing a Ministerial instruction in relation to a registered school, or which will affect a registered school, the Minister is to consult with whichever one or more of the following is relevant in the circumstances:
- (a) the governing body of the registered school;
 - (b) the approved authority for the system of non-government schools of which the registered school is a member;
 - (c) if the registered school is a member of an association of schools that represents those schools, that association.
- (4) Ministerial instructions may be issued so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the instructions and, in particular, may be issued so as to –
- (a) apply at all times, at a specified time or for a specified period; and
 - (b) apply to –
 - (i) all schools, principals, teachers, parents, children and other persons; or

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- (ii) a specified class of schools, principals, teachers, parents, children and other persons; or
 - (iii) a specified school or principal.
- (5) Ministerial instructions may –
 - (a) provide that the Secretary, the Registrar, a principal or a member of a class of principals determine a specified matter; and
 - (b) exempt a school or a person, or a class of schools or persons, from the requirement to comply with a specified provision of the Ministerial instructions, whether on specified conditions or unconditionally and either wholly or to such extent as is specified.
- (6) The Minister, from time to time, may amend the Ministerial instructions, rescind them or rescind them and substitute new Ministerial instructions.
- (7) The Ministerial instructions are to be published in the manner that the Minister considers appropriate.
- (8) An amendment of the Ministerial instructions is taken to be incorporated with the instructions.
- (9) A Ministerial instruction that is inconsistent with this Act is invalid to the extent of the inconsistency.

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- (10) The Ministerial instructions, an amendment of the Ministerial instructions and a rescission of the Ministerial instructions are not statutory rules for the purposes of the *Rules Publication Act 1953*.

7. Secretary's instructions

- (1) In this section –

specified means specified in the Secretary's instructions.

- (2) The Secretary may issue instructions, in writing, in relation to matters under this Part, including, but not limited to –
- (a) the entitlement of school-aged children, youths and persons whose homes are not in the intake area for a school to enrol at that school; and
 - (b) the attendance at a State school of children referred to in section 8; and
 - (c) the process to be followed by State schools in managing the absences of their students not authorised by Part 3; and
 - (d) the regulation of the conduct and discipline of students, including the expulsion and suspension of students; and
 - (e) the transfer of students at State schools between classes and between courses; and

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- (f) the transfer of students between State schools; and
 - (g) the curriculum, teaching practice, homework, assessment and reporting procedures at State schools; and
 - (h) religious instruction at State schools; and
 - (i) the development of plans, budgets and reports for State schools; and
 - (j) the charging of fees, levies and charges by principals of State schools for matters incidental to the provision of education; and
 - (k) the management of hostels for State school students; and
 - (l) powers of school associations; and
 - (m) any other matter in relation to which this Act provides that the Secretary is to, or may, issue instructions; and
 - (n) any other matters that the Secretary considers appropriate or that are prescribed by the regulations.
- (3) The Secretary's instructions may be issued so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the instructions and, in particular, may be issued so as to –

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- (a) apply at all times, at a specified time or for a specified period; and
 - (b) apply to –
 - (i) all schools, principals, teachers, parents, children and other persons; or
 - (ii) a specified class of schools, principals, teachers, parents, children and other persons; or
 - (iii) a specified school or principal.
- (4) The Secretary's instructions may –
- (a) provide that a principal or a member of a class of principals determine a specified matter; and
 - (b) exempt a school or a person, or a class of schools or persons, from the requirement to comply with a specified provision of the Secretary's instructions, whether on specified conditions or unconditionally and either wholly or to such extent as is specified.
- (5) The Secretary, from time to time, may amend the Secretary's instructions, rescind them or rescind them and substitute new Secretary's instructions.
- (6) The Secretary's instructions are to be published in the manner the Secretary considers appropriate.

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- (7) An amendment of the Secretary's instructions is taken to be incorporated with the instructions.
- (8) A Secretary's instruction that is inconsistent with this Act is invalid to the extent of the inconsistency.
- (9) The Secretary's instructions, an amendment of the Secretary's instructions and a rescission of the Secretary's instructions are not statutory rules for the purposes of the *Rules Publication Act 1953*.

**PART 2 – EDUCATION BEFORE COMPULSORY
EDUCATION**

8. Kindergarten

- (1) A child who attains the age of 4 years on or before 30 June in any year is entitled to be enrolled at and attend a State school in that year for kindergarten.
- (2) If a registered school is registered under Part 6 to provide kindergarten, a child who attains the age of 4 years on or before 30 June in any year may be enrolled at and attend that school in that year for kindergarten in accordance with the policy of the school.
- (3) A child –
 - (a) is entitled to attend a State school for kindergarten under this section for a maximum of 4 consecutive school terms; but
 - (b) may not attend kindergarten at a State school for more than those 4 terms.
- (4) On the written application of the parent of a child enrolled at a State school for kindergarten, the Minister may permit the child to attend kindergarten for more than 4 consecutive school terms if the Minister is satisfied that –
 - (a) the special circumstances for extended attendance in kindergarten set out in the Ministerial instructions exist; and

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(b) it is in the best interests of the child to do so.

(5) Section 12 applies, with any necessary modification, to the enrolment of a child at a school under this section.

9. Early enrolment in first year of education following kindergarten

(1) A child who attains the age of 5 years on or before 30 June in any year is entitled to be enrolled at and attend a State school in that year for the first year of primary education following kindergarten.

(2) A child who attains the age of 5 years on or before 30 June in any year may be enrolled at and attend a registered school in that year for the first year of primary education following kindergarten in accordance with the policy of the school.

(3) Section 12 applies, with any necessary modification, to the enrolment of a child at a school under this section.

**PART 3 – COMPULSORY EDUCATION AND
TRAINING**

Division 1 – Objects of Part

10. Object of Part

The object of this Part is to ensure that a child completes at least 13 years of education or training as follows (unless exempted under this Part):

- (a) by remaining at school, or being home educated, until he or she is issued with a statement of Year 10 completion;
- (b) by then –
 - (i) continuing at school until he or she is issued with a Year 12 completion certificate; or
 - (ii) participating in an approved learning program in another manner, or being home educated, until the child attains the age of 18 years or completes the approved learning program.

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Part 3 – Compulsory Education and Training

Division 2 – School-aged children

Subdivision 1 – Enrolment at school

11. Requirement to enrol school-aged child at school or provide home education

- (1) Unless exempted under this Division, a child who is at least 5 years of age as at 1 January in any year must be –
 - (a) enrolled at a school until issued with a statement of Year 10 completion (whether or not the child attains the age of 18 years before the commencement of, or during, Year 10); or
 - (b) provided with home education by a registered home educator for that year and subsequent years until the child is issued with a statement of Year 10 completion.
- (2) Each parent of a school-aged child must ensure, unless the child is exempted from enrolment under section 13 or the parent has a reasonable excuse, that the child is –
 - (a) enrolled at a school; or
 - (b) being provided with home education by a parent of the child who is registered as a home educator in respect of that child.

Penalty: Fine not exceeding –

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- (a) 10 penalty units for a first offence; and
 - (b) 15 penalty units for a second or subsequent offence.
- (3) Without limiting subsection (2), it is a reasonable excuse for a parent that the school-aged child primarily resides with another parent and the first parent believes, on reasonable grounds, that the other parent –
 - (a) is ensuring that the school-aged child is enrolled at a school; or
 - (b) is a home educator providing the school-aged child with home education.
- (4) A school-aged child may not be enrolled at more than one school unless the child –
 - (a) has disability; and
 - (b) is a member of a class of school-aged children that the Ministerial instructions allows to be enrolled at more than one school; and
 - (c) is enrolled in accordance with the Ministerial instructions.

12. Applying for enrolment at school

- (1) A parent is to enrol a school-aged child at a school by lodging a completed application with the school's principal.

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- (2) An application for enrolment of a school-aged child is to include any information the Ministerial instructions require in relation to –
 - (a) the identity of the child; and
 - (b) the identity of the parent of the child; and
 - (c) the place of residence of the child; and
 - (d) any other matter the Minister considers relevant.

- (3) If requested by the school’s principal, a parent wishing to enrol a school-aged child is to provide evidence of –
 - (a) the age of the child; and
 - (b) the family name of the child; and
 - (c) the parent’s guardianship, the parent’s parental responsibility under a parenting plan, or parenting order, under Part VII of the *Family Law Act 1975* of the Commonwealth or the parent’s other care and control of the child.

13. Exemption from requirement to enrol at school or be home educated

- (1) A parent of a school-aged child, or a school-aged child who is living independently from his or her parents, may apply to the Minister to exempt the child from the requirement to enrol at a school or be home educated.

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- (2) An application is to be in writing and made in accordance with the Ministerial instructions.
- (3) The Minister, at his or her own discretion or on the application of a parent or a school-aged child under subsection (1), may grant a school-aged child, or a class of school-aged children, an exemption from the requirement to be enrolled at a school or be home educated if satisfied that it is in the best interests of the child, or children, to be exempted.
- (4) The Minister may –
 - (a) grant the exemption subject to any condition; and
 - (b) impose any further condition, or vary or revoke any condition, at any time.
- (5) The Minister is to publish an exemption granted under subsection (3) to a class of school-aged children in a manner he or she considers appropriate.
- (6) An exemption remains in force –
 - (a) for the period referred to in it; or
 - (b) if the exemption is revoked before the expiration of that period, when it is revoked.

14. Certificate of exemption

- (1) A certificate of exemption is a certificate that states that the school-aged child specified in it is

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exempt from the requirement to be enrolled at a school or be home educated on the conditions specified in, or attached to, it.

- (2) If the Minister under section 13 exempts a particular school-aged child from the requirement to enrol at a school or be home educated, the Minister is to issue a certificate of exemption to the parent of the child, or the child, who applied for the exemption, or to both the parent and the child if the Minister considers it appropriate.
- (3) If –
 - (a) the Minister under section 13 exempts a class of school-aged children from the requirement to enrol at a school or be home educated; and
 - (b) the parent of a school-aged child of that class, or such a child, applies to the Minister for a certificate of exemption –

the Minister is to issue a certificate of exemption to that parent or child or, if the Minister considers it appropriate, to both the parent and child.
- (4) An application under subsection (3)(b) is to be in writing and made in accordance with the Ministerial instructions.

15. Revocation of exemption to enrol at school or be home educated

- (1) An exemption granted under section 13(3) to a particular school-aged child is revoked if any condition to which the exemption is subject is contravened.
- (2) An exemption granted under section 13(3) to a class of school-aged children is revoked in relation to a particular school-aged child if any condition to which the exemption is subject is contravened by the child's parent or the child.
- (3) The Minister may revoke an exemption granted under section 13 if satisfied that it is appropriate to do so.
- (4) If the Minister revokes an exemption that was granted under section 13(3) on the application of a parent or a school-aged child, the Minister is to notify, in writing, each parent and school-aged child to whom a certificate of exemption was issued under section 14 of that revocation.
- (5) If the Minister revokes an exemption that was granted under section 13(3) to a class of school-aged children, the Minister is to publish that revocation in a manner he or she considers appropriate.
- (6) If an exemption granted under section 13 is revoked, the parent or school-aged child to whom a certificate of exemption was issued under section 14 must return it to the Minister.

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Penalty: In the case of a contravention by a parent, a fine not exceeding 5 penalty units.

Subdivision 2 – Attendance of school-aged children at school

16. Attendance at school of school-aged child

- (1) Unless exempted or excused under this Division, a parent of a school-aged child must ensure that the child –
 - (a) attends school each school day; or
 - (b) receives home education; or
 - (c) participates in an individual education program.

Penalty: Fine not exceeding 15 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

- (2) If a court finds a parent guilty of an offence under subsection (1), the court, instead of or in addition to imposing a fine, may make a community service order within the meaning of the *Sentencing Act 1997*.
- (3) A school-aged child is to attend a school during the whole of a school day unless the child –
 - (a) is being provided with home education; or

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- (b) is participating in an individual education program; or
 - (c) is exempted or excused from attendance under this Division.
- (4) A principal must ensure that a register is kept recording the daily attendance or absence of each school-aged child.
- (5) For the purposes of this section, a school-aged child may attend a school by using a form of electronic communication, within the meaning of the *Electronic Transactions Act 2000*, if –
 - (a) the principal of a school has approved attendance at the school by that form of electronic communication; and
 - (b) the principal has approved the attendance of the child at the school by using that form of electronic communication.

17. Part-time attendance of school-aged child

- (1) A parent of a school-aged child, or a school-aged child who is living independently from his or her parents, may apply, in writing, to the Minister to permit the child to attend a school part-time.
- (2) An application is to be in writing and made in accordance with the Ministerial instructions.
- (3) The Minister, at his or her own initiative or on the application of a parent or school-aged child, may permit part-time attendance at a school if

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satisfied that it is in the best interests of the school-aged child to attend part-time.

- (4) The Minister may –
- (a) permit part-time attendance at a school subject to any condition; and
 - (b) impose any further condition or vary or revoke any condition at any time.

18. Exemption from attendance of school-aged child without application

- (1) A school-aged child is exempted from the requirement to attend a school if –
- (a) the child is suspended or temporarily excluded from that school; or
 - (b) the child has been expelled from that school; or
 - (c) the child has been, or is a member of a class of school-aged children that has been, exempted under section 13 from the requirement to be enrolled at a school or be home educated; or
 - (d) the child attends a school which is not, but which the child’s parent reasonably believes to be, a school within the meaning of this Act.
- (2) An exemption under this section ceases to have effect on the day on which the event on which the exemption is based ceases to apply.

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- (3) A school-aged child who is enrolled at a school is not exempted from the requirement to attend the school by reason only of disability.

19. School-aged child excused from daily attendance at school

- (1) A school-aged child is excused from attendance at a school if –
- (a) the child –
 - (i) is sick; or
 - (ii) has a temporary physical or mental incapacity; and
 - (b) that sickness or physical or mental incapacity is such that it prevents the child from attending; and
 - (c) a parent of the child, or the child if he or she is living independently from his or her parents, has notified the school's principal as soon as reasonably practicable on or after the day on which the child is absent, but not later than 2 days after that day.
- (2) If a school-aged child has failed to attend at a school because of sickness or incapacity for a total of 5 days in any school year, the parent of the child, or the child if he or she is living independently from his or her parents, is to provide a certificate from a medical practitioner in relation to any further failure to attend

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because of sickness or incapacity if requested to do so by the school's principal.

- (3) For the purposes of subsections (1) and (2), if a school-aged child has a medical or other condition that results in the child being susceptible to having a physical, emotional or mental reaction to an incident, situation or exposure to disease which is stronger than the reaction of school-aged children who do not have the condition –
- (a) the child, by reason of that condition alone, is taken not to be sick or incapacitated; but
 - (b) on the day on which the child is absent from school, is taken to be sick or incapacitated if he or she is experiencing or recovering from such a reaction.
- (4) A principal of a school may require a school-aged child not to attend a school during any day on which the child has an infestation or is suffering from any disease which, on advice from the Director of Public Health, the Secretary considers may be infectious, contagious or harmful to the health of other persons at the school.
- (5) A school-aged child is excused from attendance at a school –
- (a) if the child is required under subsection (4) not to attend a school; or

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- (b) in any circumstances specified in the Ministerial instructions.

Subdivision 3 – Withdrawal from, or cancellation of, enrolment of school-aged child

20. Withdrawal from, or cancellation of, enrolment of school-aged child

- (1) If a school-aged child is enrolled at a school and is to be withdrawn from that school, the parent of the child must notify the principal of the school, in writing, of that withdrawal and –
- (a) of the proposed school at which the child is to be enrolled; or
 - (b) that the child is to be home educated; or
 - (c) of any other proposed education of the child; or
 - (d) that the child is exempted or excused under this Part from the requirement to be enrolled at a school or be provided with home education.
- (2) If the principal of a school receives notice that a school-aged child is withdrawn from the school and is to be home educated, the principal of the school is to provide a copy of the notice to the Registrar.
- (3) If the enrolment of a school-aged child at a registered school is cancelled, the administrative authority must notify the Secretary of the cancellation within 7 days.

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- (4) If the principal of a school (the *old principal*) is notified that a school-aged child is withdrawing from enrolment at that school and is to be enrolled at another school, the old principal is to notify the principal of the other school (the *new principal*), in writing, of the intention of the parent of the child to enrol him or her at the other school.
- (5) If a new principal receives notice from the old principal that a school-aged child is to be enrolled at his or her school –
 - (a) the new principal is to request the provision of information relating to the child, including personal and educational information, from the old principal; and
 - (b) the old principal is to provide that information to the new principal.
- (6) If a new principal receives notice that a school-aged child is to be enrolled at his or her school but the parent of the child fails to enrol the child –
 - (a) the new principal is to inform the Secretary of the responsible Department in relation to the *Children, Young Persons and Their Families Act 1997* or a Community-Based Intake Service, within the meaning of that Act, of that failure to enrol; and
 - (b) the information provided under paragraph (a) is to be taken, for the purposes of section 14 of the *Children,*

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Young Persons and Their Families Act 1997, to be information of a suspicion that the child is being abused or neglected.

Subdivision 4 – Providing learning programs or notices of home education during last year as school-aged child

21. Object of Subdivision

The objects of this Subdivision are to ensure that –

- (a) before the requirement for a school-aged child to be enrolled at a school ends and the child becomes a youth, an approved learning program is put in place in preparation for the participation of the youth, in accordance with the requirement under section 24, in an approved learning program during the following year; and
- (b) the school-aged child receives the support of the school at which he or she is enrolled in preparing a learning program for approval as his or her approved learning program.

22. Providing learning program or notifying of home education

- (1) During the school year in which a school-aged child is attending Year 10 at a school, the parent of the child, and that child, must ensure that a

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notice, of a proposed learning program for the child to participate in following the issue to the child of a statement of Year 10 completion, is provided to the principal of the school in accordance with this section unless –

- (a) the child is to be home educated following the issue of that certificate; or
- (b) the child attains the age of 18 years during the calendar year that encompasses Year 10.

Penalty: In the case of a contravention by a parent, a fine not exceeding 10 penalty units.

- (2) A notice under subsection (1) is to –
 - (a) be in a form approved by the Minister; and
 - (b) include the proposed learning program; and
 - (c) be provided to the principal of the child’s school no later than the end of the school year for that school.
- (3) During the school year in which a school-aged child is attending Year 10 at a school, the parent of the child, and the child, must ensure that a notice, stating that the child is to be home educated following the issue to the child of a statement of Year 10 completion, is provided, in accordance with this section, to the principal of the child’s school unless –

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- (a) the child is to participate in an approved learning program following the issue of that certificate; or
- (b) the child attains the age of 18 years during the calendar year that encompasses Year 10.

Penalty: In the case of a contravention by a parent, a fine not exceeding 10 penalty units.

- (4) A notice under subsection (3) is to –
 - (a) be in a form approved by the Minister; and
 - (b) include evidence, as required by the Ministerial instructions, that the parent of the child is a home educator or has applied to be registered as a home educator; and
 - (c) be provided to the principal of the child’s school no later than the end of the school year for that school.
- (5) Either before, or as soon as reasonably practicable after, the end of Year 10, the principal is to provide –
 - (a) a notice received by him or her under subsection (1) or (3) to the Secretary; and
 - (b) if the child is a child referred to in section 29(2), a copy of the proposed learning program accompanying a notice

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received by him or her under subsection (1) to each provider under the program; and

(c) a copy of the notice received by him or her under subsection (3) to the Registrar.

(6) This section does not apply to a child who is enrolled at a school, for part-time attendance, as part of his or her approved home education program and is to continue to be home educated following the issue to the child of a statement of Year 10 completion.

Division 3 – Youths

Subdivision 1 – Participation in, and completion of, approved learning programs or home education

23. What is participation in an approved learning program?

A youth is participating in an approved learning program if he or she, subject to this Act, is being provided with education or training by each provider in accordance with the program.

24. Participation in approved learning program or home education

(1) Unless exempted under this Division, a child who has been issued with a statement of Year 10 completion must –

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- (a) participate full-time in an approved learning program until the first of the following occurs:
 - (i) he or she obtains a Year 12 completion certificate;
 - (ii) he or she obtains a Certificate III qualification, within the meaning of the Australian Qualifications Framework;
 - (iii) he or she attains the age of 18 years; or
 - (b) be home educated until he or she attains the age of 18 years.
- (2) Each parent of a youth must ensure that the youth is participating full-time in an approved learning program or is being home educated unless a youth is exempted from participation under section 26 or the parent has a reasonable excuse.
- Penalty: Fine not exceeding –
- (a) 10 penalty units for a first offence; and
 - (b) 15 penalty units for a second or subsequent offence.
- (3) Without limiting subsection (2), it is a reasonable excuse for a parent that –
- (a) the youth primarily resides with another parent and the first parent believes, on

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reasonable grounds, that the other parent is ensuring that the youth participates full-time in an approved learning program or is being home educated; or

(b) in all the circumstances, the parent is not reasonably able to ensure that the youth participates full-time in an approved learning program or is home educated.

(4) If a court finds a parent guilty of an offence under subsection (2), the court, instead of or in addition to imposing a fine, may impose a community service order within the meaning of the *Sentencing Act 1997*.

25. Proposed learning program for child coming from outside jurisdiction

(1) In this section –

prescribed child means a child who –

(a) has migrated to Tasmania from another jurisdiction, whether a jurisdiction in Australia or elsewhere; and

(b) has completed in that other jurisdiction the equivalent of Year 10.

(2) However, a child is not a prescribed child if the Secretary determines that the child has not completed the equivalent of Year 10 in another jurisdiction.

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- (3) A prescribed child is taken to have been issued with a statement of Year 10 completion.
- (4) Before a prescribed child moves to Tasmania or as soon as reasonably practicable after the child has moved to Tasmania, the child's parent, and the child, must ensure that notice of a proposed learning program for the child to participate in is provided to the Secretary in accordance with this section unless the child is to be home educated.

Penalty: In the case of a contravention by a parent, a fine not exceeding 10 penalty units.

- (5) A notice under subsection (4) is to –
- (a) be in a form approved by the Minister; and
 - (b) include the proposed learning program.
- (6) Before a prescribed child moves to Tasmania or as soon as reasonably practicable after the child has moved to Tasmania, the child's parent, and the child, must ensure that a notice stating that the child is to be home educated is provided to the Secretary in accordance with this section unless the child is to participate in an approved learning program.

Penalty: In the case of a contravention by a parent, a fine not exceeding 10 penalty units.

- (7) A notice under subsection (6) is to –

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- (a) be in a form approved by the Minister;
and
- (b) include evidence, as required by the Ministerial instructions, that the parent of the child is a home educator or has applied to be registered as a home educator.

26. Exemption from participation in approved learning program

- (1) A parent of a youth, or a youth who is living independently from his or her parents, may apply to the Minister to exempt the youth from the requirement to participate in an approved learning program or be home educated.
- (2) An application is to be in writing and made in accordance with the Ministerial instructions.
- (3) If the Minister is satisfied by evidence provided with an application under subsection (1) that the youth is in full-time employment, the Minister is to grant the exemption.
- (4) The Minister, on an application under subsection (1) that does not relate to the youth being in full-time employment, may grant a youth an exemption from the requirement to participate in an approved learning program or be home educated if satisfied that it is in the best interests of the youth to be exempted.
- (5) The Minister, at his or her own discretion, may grant a class of youths an exemption from the

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requirement to participate in an approved learning program or be home educated if satisfied that it is in the best interests of the youths to be exempted.

- (6) The Minister may –
 - (a) grant an exemption under subsection (3), (4) or (5) subject to any condition; and
 - (b) impose any further condition, or vary or revoke any condition, at any time.
- (7) The Minister is to publish an exemption granted under subsection (5) to a class of youths in a manner he or she considers appropriate.
- (8) An exemption remains in force –
 - (a) for the period referred to in it; or
 - (b) if the exemption is revoked before the expiration of that period, when it is revoked.

27. Certificate of exemption

- (1) A certificate of exemption is a certificate that states that the youth specified in it is exempt from the requirement to participate in an approved learning program or be home educated on the conditions specified in, or attached to, it.
- (2) If the Minister under section 26 exempts a particular youth from the requirement to participate in an approved learning program or be home educated, the Minister is to issue a

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certificate of exemption to the parent of the youth, or the youth, who applied for the exemption or, if the Minister considers it appropriate, to both the parent and the youth.

(3) If –

- (a) the Minister under section 26 exempts a class of youths from the requirement to participate in an approved learning program or be home educated; and
- (b) the parent of a youth of that class, or such a youth, applies to the Minister for a certificate of exemption –

the Minister is to issue a certificate of exemption to that parent or youth or, if the Minister considers it appropriate, to both the parent and youth.

(4) An application under subsection (3)(b) is to be in writing and made in accordance with the Ministerial instructions.

28. Revocation of exemption from requirement to participate in approved learning program or be home educated

- (1) An exemption granted under section 26 to a particular youth is revoked if any condition to which the exemption is subject is contravened.
- (2) An exemption granted under section 26 to a class of youths is revoked in relation to a particular youth if any condition to which the exemption is

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subject is contravened by the youth's parent or the youth.

- (3) The Minister may revoke an exemption granted under section 26 if satisfied that it is appropriate to do so.
- (4) If the Minister revokes an exemption that was granted under section 26(3) or (4) on the application of a parent or a youth, the Minister is to notify, in writing, each parent and youth to whom a certificate of exemption was issued under section 27 of that revocation.
- (5) If the Minister revokes an exemption that was granted under section 26(5) to a class of youths, the Minister is to publish that revocation in a manner he or she considers appropriate.
- (6) If an exemption granted under section 26 is revoked, each parent and youth to whom a certificate of exemption was issued under section 27 must return it to the Minister.

Penalty: In the case of a contravention by a parent, a fine not exceeding 5 penalty units.

29. Approval of learning program

- (1) In this section –

prescribed child has the same meaning as in section 25.

- (2) If a school-aged child –

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- (a) is in Year 10 when notice of the child's proposed learning program is provided to the principal of his or her school under section 22; or
- (b) is being home educated when notice of the child's proposed learning program is provided to the Secretary under section 85 –

and the child is issued with a statement of Year 10 completion, the proposed learning program set out in the notice is the approved learning plan for the child on becoming a youth.

- (3) If a school-aged child –
 - (a) is in Year 10 at a school when notice of the child's proposed learning program is provided to the principal of his or her school under section 22; or
 - (b) is being home educated when notice of the child's proposed learning program is provided to the Secretary under section 85 –

but the child is not issued with a statement of Year 10 completion, the Secretary may approve the proposed learning program, or amend it and approve the amended proposed learning program, as the approved learning program for the child on becoming a youth.

- (4) If the Secretary approves an approved learning program under subsection (3), the child is taken

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for the purposes of this Act to have been issued with a statement of Year 10 completion.

- (5) If notice of a proposed learning program for a prescribed child is provided to the Secretary under section 25, the Secretary may approve the proposed learning program, or amend it and approve the amended proposed learning program, as the approved learning program for the prescribed child.
- (6) Before amending a proposed learning program under this section, the Secretary is to consult the parent of the child and the child, as the Secretary considers appropriate.
- (7) A proposed learning program referred to in subsection (3) or (5), or that program as amended under this section, becomes the approved learning program for the school-aged child or prescribed child on becoming a youth when it is approved under that subsection.
- (8) On approving a proposed learning program referred to in subsection (3) or (5), or that program as amended under this section, the Secretary is to notify the parent of the school-aged child or prescribed child, and the child, in writing, of that approval and is to provide a copy of the approved learning program to –
 - (a) each provider under the program; and
 - (b) if the approval is of an amended proposed learning program, the parent and the child.

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30. Amendment of approved learning program

- (1) If, at any time while an approved learning program has effect, the Secretary considers that the program does not meet the requirements for a learning program, the Secretary may amend it.
- (2) Before amending an approved learning program, the Secretary is to consult the youth and, as the Secretary considers practicable and appropriate in the circumstances, the youth's parent and the providers under the program.
- (3) On amending an approved learning program, the Secretary is to notify, and provide a copy of the amended approved learning program to –
 - (a) each provider under the program; and
 - (b) the parent of the youth; and
 - (c) the youth.
- (4) An amendment of an approved learning program takes effect on the day specified in the notice provided to providers, the parent of the youth and the youth under subsection (3).

31. Completion of approved learning program

For the purposes of this Act, a youth completes his or her approved learning program when he or she, under section 24(1), is no longer required to participate in an approved learning program.

Subdivision 2 – Enrolment at school under approved learning program

32. Enrolment at school under approved learning program

- (1) If a youth's approved learning program requires the youth to attend a school, section 12 applies, with any necessary modification and adaptation, to the application to enrol the youth in a school.
- (2) A youth may not be enrolled at more than one school unless –
 - (a) the youth has disability; and
 - (b) the youth is a member of a class of youths that the Ministerial instructions allows to be enrolled at more than one school; and
 - (c) the youth is enrolled in accordance with the Ministerial instructions.

Subdivision 3 – Attendance of youths at approved learning programs

33. Attendance at approved learning program

- (1) A youth must attend his or her approved learning program as required by that program unless he or she is exempted or excused from attending under this Division.
- (2) A parent of a youth must ensure that the youth attends an approved learning program as

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required by that program unless the youth is exempted or excused from attending under this Division or the parent has a reasonable excuse.

Penalty: Fine not exceeding –

- (a) 10 penalty units for a first offence; and
 - (b) 15 penalty units for a second or subsequent offence.
- (3) Without limiting subsection (2), it is a reasonable excuse for a parent that –
- (a) the youth primarily resides with another parent and the first parent believes, on reasonable grounds, that the other parent is ensuring that the youth attends his or her approved learning program as required by that program; or
 - (b) in all the circumstances, the parent is not reasonably able to ensure that the youth so attends his or her approved learning program.
- (4) A provider of the approved learning program of a youth, other than a principal of a school, must notify the Secretary of the non-attendance of the youth at the program unless the youth is exempted or excused from attending under this Division.

Penalty: Fine not exceeding 20 penalty units.

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- (5) If a youth is enrolled at a school under his or her approved learning program and fails to attend as required by the program, Division 5 applies in relation to the youth, with any necessary modification or adaptation.
- (6) For the purposes of this section, a youth may attend an approved learning program by using a form of electronic communication, within the meaning of the *Electronic Transactions Act 2000*, if –
 - (a) that form of electronic communication is allowed by the provider of the program; and
 - (b) the provider has approved the youth's attendance at the program by using that form of electronic communication.

34. Part-time attendance at approved learning program

- (1) A parent of a youth or a youth may apply to the Minister to permit the youth to attend an approved learning program part-time.
- (2) An application is to be in writing and in accordance with the Ministerial instructions.
- (3) The Minister, at his or her own initiative or on the application of a parent or a youth, may permit part-time attendance at an approved learning program if satisfied that it is in the best interests of the youth to attend part-time.
- (4) The Minister may –

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- (a) permit part-time attendance at an approved learning program subject to any condition; and
- (b) impose any further condition or vary or revoke any condition at any time.

35. Exemption from attendance at approved learning program without application

- (1) A youth is exempted from the requirement to attend an approved learning program if –
 - (a) the youth is suspended or temporarily excluded from that program; or
 - (b) the youth has been expelled from that program; or
 - (c) the youth has been, or is a member of a class of youths that has been, exempted under section 26 from the requirement to participate in an approved learning program; or
 - (d) the youth attends, or attended, a program which the youth's parent or youth reasonably believes, or believed, to be an approved learning program.
- (2) An exemption under this section ceases to have effect on the day on which the event on which the exemption is based ceases to apply.
- (3) A youth is not exempted from the requirement to attend an approved learning program by reason only of disability.

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36. Youth excused from daily attendance at approved learning program

- (1) A youth is excused from attendance at an approved learning program if –
- (a) the youth –
 - (i) is sick; or
 - (ii) has a temporary physical or mental incapacity; and
 - (b) that sickness or physical or mental incapacity is such that it prevents the youth from attending; and
 - (c) a parent of the youth or, if the youth is living independently from his or her parents, the youth has notified the provider of the program of the reason for the absence –
 - (i) if the provider has a policy or requirements relating to the notification of absences, in accordance with the policy or requirements; or
 - (ii) in any other case, as soon as reasonably practicable on or after the day on which the youth is absent from the approved learning program but not later than 2 days after that day.

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- (2) If a youth has failed to attend at an approved learning program because of sickness or incapacity for a total of 5 days in any calendar year, the parent of the youth, or the youth, is to provide a certificate from a medical practitioner to the provider of the program in relation to any further failure to attend because of sickness or incapacity if requested to do so by the provider.
- (3) For the purposes of subsections (1) and (2), if a youth has a medical or other condition that results in the youth being susceptible to having a physical, emotional or mental reaction to an incident, situation or exposure to disease which is stronger than the reaction of youths who do not have the condition –
 - (a) the youth, by reason of that condition alone, is taken not to be sick or incapacitated; but
 - (b) on the day the youth is absent from an approved learning program, is taken to be sick or incapacitated if he or she is experiencing or recovering from such a reaction.
- (4) A provider of an approved learning program may require a youth not to attend that part of the program provided by that provider during any day on which the youth has an infestation or is suffering from any disease which, on advice from the Director of Public Health, the Secretary considers may be infectious, contagious or harmful to the health of other persons present at the provider's premises.

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- (5) A youth is excused from attendance at a school –
- (a) if the youth is required under subsection (4) not to attend his or her approved learning program or part of it; or
 - (b) in any circumstances specified in the Ministerial instructions.

Subdivision 4 – Other matters relating to approved learning programs

37. Notification of change of circumstances under approved learning program

- (1) If there is any change of a provider of the approved learning program of a youth, or any other change that is contrary to the approved learning program of a youth, the parent of the youth or, if the youth is living independently from his or her parents, the youth must notify the Secretary of that change in a form approved by the Minister.

Penalty: In the case of a contravention by a parent, a fine not exceeding 10 penalty units.

- (2) If the change referred to in subsection (1) is a withdrawal from, or cancellation of, enrolment at a registered school, the administrative authority of the school must notify the Secretary of the withdrawal within 7 days after the withdrawal or cancellation.

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- (3) If the change referred to in subsection (1) is a withdrawal of enrolment from one school and either enrolment at a different school or the commencement of home education, the parent of the youth or, if the youth is living independently from his or her parents, the youth must notify the principal of the school from which the youth is withdrawing, in writing –
- (a) of that withdrawal; and
 - (b) either –
 - (i) of the school at which the youth is to be enrolled; or
 - (ii) that the youth is to be home educated.
- (4) If the change referred to in subsection (1) is a withdrawal of enrolment from one school and enrolling in a different school, section 20(4), (5) and (6) applies, with any necessary modification and adaptation.
- (5) On receiving a notice under subsection (1), the Secretary is to provide a copy of the amended approved learning program to any new provider under the amended plan or any provider affected by the amendment of the plan.

38. Use of information about approved learning program

- (1) The Secretary may use his or her knowledge of a child's approved learning program, or any

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information he or she has obtained through a notice of proposed learning program relating to a child provided under section 22, 25 or 85 or another notice amending that notice, only for the purpose of ensuring that the child is participating in his or her approved learning program.

- (2) For the purpose of ensuring that a youth is participating in his or her approved learning program –
 - (a) the Secretary may provide his or her knowledge of the approved learning program or the information referred to in subsection (1) to a provider of the approved learning program; and
 - (b) a provider of the approved learning program is to provide information about the youth to the Secretary.
- (3) Despite subsection (1), the Secretary may use his or her knowledge of a child’s approved learning program, or any information he or she has obtained through a notice of proposed learning program relating to a child provided under section 22, 25 or 85 or another notice amending that notice, for any of the following purposes if the Secretary, in doing so, does not disclose the identity of the child or his or her parent or information from which the identity of the child or his or her parent could be deduced:
 - (a) planning the State’s educational systems and resources;

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- (b) reporting on the State's educational systems and resources;
- (c) research relating to the State's educational systems and resources;
- (d) a purpose prescribed by the regulations.

Division 4 – Other matters relating to enrolment and attendance at school or approved learning program

39. Objection to participation in school activities

- (1) A parent of a school-aged child or youth attending a State school may object as a matter of conscience to that child or youth participating in an activity prescribed by the regulations.
- (2) A parent of a school-aged child or youth who objects to the child or youth participating in a particular activity must notify the principal, in writing –
 - (a) that the child or youth is not to participate in that particular activity; and
 - (b) of the reasons for the objection.

Penalty: Fine not exceeding 5 penalty units.

Division 5 – Managing unauthorised absences

Subdivision 1 – Investigating unauthorised absences

40. Investigation of unauthorised absence

- (1) In this section –

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authorised person means –

- (a) in relation to the unauthorised absence of any school-aged child or youth from a school or approved learning program, a person authorised under subsection (2) to investigate any unauthorised absence; or
 - (b) in relation to the unauthorised absence of any school-aged child or youth from a particular school, a person authorised under subsection (2) or (3) to investigate any unauthorised absence.
- (2) The Secretary may authorise a person to investigate any unauthorised absence of a school-aged child or youth from a State school or an approved learning program.
 - (3) The administrative authority of a school may authorise a person to investigate any unauthorised absence of a school-aged child or youth from that school.
 - (4) In authorising a person under subsection (3), the administrative authority of a school is to comply with the Ministerial instructions.
 - (5) The Secretary is to issue an authorised person he or she authorises under subsection (2), and an administrative authority is to issue an authorised person it authorises under subsection (3), with an

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identity card bearing the photograph of that person.

- (6) An authorised person authorised by the Secretary under subsection (2) may investigate any unauthorised absence, or suspected unauthorised absence, of a school-aged child or youth from a State school or an approved learning program.
- (7) An authorised person authorised by the administrative authority of a school under subsection (3) may investigate any unauthorised absence, or suspected unauthorised absence, of a school-aged child or youth from the school.
- (8) An authorised person may –
 - (a) approach any person who appears to him or her to be under the age of 18 years and is apparently not in attendance at a school or an approved learning program; and
 - (b) request the person approached to provide –
 - (i) his or her name, age and address; and
 - (ii) the name and address of the school or the provider of the approved learning program normally attended by the person approached; and

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- (iii) the reason for being absent from school or the approved learning program.
- (9) An authorised person authorised by the Secretary under subsection (2) may accompany any person approached under subsection (8) to his or her home, or to the school or the relevant provider of the approved learning program specified by the person approached, to verify the information provided by the person approached under subsection (8)(b).
- (10) An authorised person authorised by the administrative authority of a school under subsection (3) may accompany any person approached under subsection (8) to his or her home, or to that school, to verify the information provided by the person approached under subsection (8)(b) if the person approached stated that he or she is enrolled at that school.
- (11) Before taking any action under subsection (9) or (10) in respect of a person, an authorised person must show the person his or her identification card.
- (12) In investigating an unauthorised absence, or suspected unauthorised absence, of a school-aged child or youth under subsection (6) or (7), an authorised person may –
 - (a) approach the parent of the child or youth; and
 - (b) require the parent to explain the reason that the child or youth is, or was, absent

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from school or an approved learning program.

- (13) In exercising any powers under this section, an authorised person is to comply with the Ministerial instructions.

Subdivision 2 – Compulsory conciliation conferences

41. Ministerial instructions relating to student absence

The Ministerial instructions may –

- (a) set out the processes to be followed in managing the absences of school students not authorised by this Part; and
- (b) relate to the convening of conferences as part of managing the absences of school students not authorised by this Part, including when, and the circumstances in which, such conferences may be convened; and
- (c) set out the process to be followed by authorised persons under section 40.

42. Referral of absenteeism to Registrar

- (1) If the administrative authority of a school is satisfied that all the requirements for the convening of a compulsory conciliation conference specified in the Ministerial instructions have been met in relation to the unauthorised absences of a school student, the administrative authority may refer the matter to

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the Registrar for the convening of a compulsory conciliation conference in respect of that student.

- (2) A referral is to be accompanied by the documents, and is to include the information, required by the Ministerial instructions.
- (3) On receipt of a referral, the Registrar is to assess the referral against the requirements for the convening of a compulsory conciliation conference specified in the Ministerial instructions and –
 - (a) if satisfied that all of those requirements have been met, is to accept the referral; or
 - (b) if not so satisfied, is to reject the referral.
- (4) For the purposes of assessing a referral, the Registrar may require the administrative authority to provide any documents or information he or she considers may be relevant.
- (5) The Registrar is to notify the administrative authority, in writing –
 - (a) of his or her determination to accept or reject the referral; and
 - (b) if he or she rejects the referral, of the reasons for that determination.

43. Process for convening compulsory conciliation conference

- (1) In this section –

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Tasmanian public authority means –

- (a) an Agency, within the meaning of the *State Service Act 2000*, or part of such an Agency; or
- (b) the University of Tasmania; or
- (c) the Police Service; or
- (d) a council; or
- (e) a Government Business Enterprise, within the meaning of the *Government Business Enterprises Act 1995*; or
- (f) a body or authority, whether incorporated or not, that is established or constituted by or under an Act or under the royal prerogative, being a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another such body or authority but does not include an Agency, within the meaning of the *State Service Act 2000*; or
- (g) a body, whether corporate or unincorporate, that is established by or under an Act for a public purpose; or

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- (h) a company incorporated under the Corporations Act that is controlled by one or more councils or another company that is so controlled; or
 - (i) a company incorporated under the Corporations Act that is controlled by –
 - (i) the Crown; or
 - (ii) a Government Business Enterprise, within the meaning of the *Government Business Enterprises Act 1995*; or
 - (iii) a body or authority referred to in paragraph (f); or
 - (iv) another company incorporated under the Corporations Act that is so controlled.
- (2) On accepting a referral under section 42(3)(a), the Registrar –
- (a) is to appoint a conciliator to convene and facilitate a compulsory conciliation conference in respect of the school student; and
 - (b) is to fix a time and place for the compulsory conciliation conference; and

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- (c) is to issue a notice specifying the time and place at which the compulsory conciliation conference is to be held; and
 - (d) is to invite the following persons to attend the compulsory conciliation conference:
 - (i) the parents of the school student;
 - (ii) the principal of the school;
 - (iii) any other person who has been involved in managing the absenteeism of the school student; and
 - (e) may invite the following persons to attend the compulsory conciliation conference:
 - (i) the school student;
 - (ii) a teacher or another employee of the governing body of the school;
 - (iii) any other person the Registrar or conciliator considers may have an input, or interest, in resolving the student's absenteeism.
- (3) A school student who has not been invited to attend the compulsory conciliation conference may notify the Registrar or conciliator, either in writing or orally, that he or she wishes to attend the conference and, if he or she does so, he or she is entitled to attend the conference.

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- (4) If a school student who has been invited to attend the compulsory conciliation conference notifies the Registrar or conciliator, either in writing or orally, that he or she does not wish to attend the conference, the student is entitled to make a written submission to the Registrar or conciliator.
- (5) If reasonably practicable, the time fixed for the compulsory conciliation conference must be within 3 weeks after the Registrar accepts the referral under section 42(3)(a).
- (6) If the Registrar, at his or her own discretion or on the request of the conciliator, considers that a person is relevant to resolving the school student's absenteeism but is unlikely to attend the compulsory conciliation conference unless compelled to attend, the Registrar may require the person, by notice in writing, to attend the conference.
- (7) A parent may give the school student's sickness or incapacity as a reason for the absenteeism only if the parent provides evidence from a medical practitioner that the student was, and continues to be, unable to attend school because of a sickness or incapacity within the meaning of sections 19 and 36.
- (8) If the Registrar, at his or her own discretion or on the request of the conciliator, considers that any of the following entities has or may have information relevant to a compulsory conciliation conference, the Registrar may require the entity to provide that information to

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the Registrar for use in the compulsory conciliation conference:

- (a) an individual;
 - (b) an individual occupying a position;
 - (c) a Tasmanian public authority;
 - (d) a body of persons, corporate or unincorporate.
- (9) Before making a requirement under subsection (8), the Registrar is to consider whether the requirement is reasonable after taking into account –
- (a) the time and cost involved in complying with the requirement; and
 - (b) whether the requirement may require the entity, in disclosing the information, to contravene section 16(2) of the *Children, Young Persons and Their Families Act 1997*; and
 - (c) any other matter specified in the Ministerial instructions.
- (10) An entity specified in subsection (8) is not required to comply with a requirement made under that subsection if to do so would require –
- (a) the disclosure of information that is exempt information under section 30 of the *Right to Information Act 2009*; or

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- (b) the disclosure of information in contravention of any law other than –
 - (i) the *Personal Information Protection Act 2004*; or
 - (ii) a law prescribed by the regulations.

44. Conduct of compulsory conciliation conference

- (1) The conciliator may conduct a compulsory conciliation conference in the absence of any person invited to attend, or required by notice under section 43(6) to attend, if the conciliator considers that it is appropriate in the circumstances to do so.
- (2) In conducting a compulsory conciliation conference, the conciliator must ensure that –
 - (a) all persons attending the conference understand that the purpose of the conference is to –
 - (i) discuss the issues concerning, and the reasons for, the student’s absenteeism; and
 - (ii) find possible solutions for the student’s absenteeism; and
 - (iii) make recommendations to the Registrar about those solutions and the manner of their implementation; and

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- (b) all persons attending the conference understand its nature and consequences; and
 - (c) the conference is conducted in a non-adversarial manner for the purposes of establishing the reasons for the student's absenteeism and exploring and determining solutions to the absenteeism.
- (3) In conducting a compulsory conciliation conference, the conciliator is to comply with this Act, the Ministerial instructions and the regulations.
- (4) With the permission of the conciliator, a person may attend a compulsory conciliation conference for the purpose of providing expert advice or information on matters relevant to the conference.
- (5) If the conciliator considers that a person attending the compulsory conciliation conference is deliberately attempting to disrupt the conference, the conciliator may –
 - (a) require that person to leave the conference; and
 - (b) if the person refuses to leave, take such steps as are necessary to remove the person from the conference.
- (6) If the conciliator considers it appropriate, the conciliator may adjourn a compulsory conciliation conference from time to time and from place to place.

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- (7) If, at any time during the conduct of a compulsory conciliation conference, the conciliator considers that the conference will not result in any possible solution to the school student's absenteeism, the conciliator may bring the conference to an end.

45. Recommendations of compulsory conciliation conference

The recommendations of a compulsory conciliation conference may be –

- (a) that the Registrar issue a requirement implementing a solution to the school student's absenteeism as specified in the recommendation; or
- (b) that a Compulsory Schooling Order be made to implement a solution to the school student's absenteeism as specified in the recommendation.

46. Before concluding compulsory conciliation conference

- (1) Before a compulsory conciliation conference ends, the recommendations of the conference or, if no recommendation is made, notice of that failure to make any recommendations must be recorded in writing and signed by each of the following persons:
- (a) all parents of the school student present at the conference;

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- (b) the school student, if present at the conference and able to sign;
 - (c) the principal of the relevant school;
 - (d) the conciliator.
- (2) The refusal of a person to sign the recommendations or notice as required under subsection (1) does not affect the recommendations or notice but a note of that refusal may be included in, or attached to, the recommendations or notice by the conciliator.
- (3) The recommendations or notice must include –
- (a) the names of the persons who attended the compulsory conciliation conference; and
 - (b) details of the time and place at which the conference was held.

47. Procedure by conciliator after compulsory conciliation conference

As soon as reasonably practicable after concluding a compulsory conciliation conference, the conciliator is to provide the Registrar with –

- (a) the recommendations of the conference or, if no recommendation is made, the notice of the failure to make any recommendations made under section 46; and

- (b) a report on the conference that contains a summary of the matters discussed.

Subdivision 3 – Procedure of Registrar after compulsory conciliation conference

48. Action by Registrar on report of conciliator

- (1) As soon as reasonably practicable after receiving, under section 47, the recommendations, or notice, and the report referred to in that section, the Registrar is to assess the report and the recommendations or notice.
- (2) In assessing the report and the recommendations or notice, the Registrar may require the conciliator to provide further information about the compulsory conciliation conference and its recommendations.
- (3) On assessing the report and the recommendations or notice, the Registrar may do any one or more of the following:
 - (a) issue one or more of the recommended requirements or refuse to issue any of the recommended requirements;
 - (b) issue one or more other requirements;
 - (c) refer the report and the recommendations or notice to the Principal Officer, Non-attendance together with –

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- (i) details of his or her assessment of the report and the recommendations or notice; and
 - (ii) his or her recommendations in relation to the making of a Compulsory Schooling Order.
- (4) The Registrar may issue any one or more of the following requirements:
 - (a) that the school principal make the reasonable adjustments specified in the requirement;
 - (b) that the parent of the school student make the reasonable adjustments specified in the requirement;
 - (c) that any of the following persons undertake programs, training or development as specified in the requirement:
 - (i) the parent of the school student;
 - (ii) the school student;
 - (iii) the staff of the school who are specified in the recommendation;
 - (d) any other requirement that the Registrar considers appropriate.
- (5) Before issuing a requirement, the Registrar is to take into account –

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- (a) the likely costs that will be incurred by the person in taking the required action; and
 - (b) the ability of that person, financially, to comply with the requirement.
- (6) A requirement is to be in writing and a copy of it is to be provided to –
- (a) the school student named in the requirement; and
 - (b) each of the school student’s parents named in the requirement or who attended the compulsory conciliation conference; and
 - (c) the principal of the school; and
 - (d) any person affected by the requirement; and
 - (e) if the requirement requires the principal of the school to take any action, the administrative authority of the school; and
 - (f) if the Registrar considers it appropriate, another person who is, or has been, concerned in the management of the student’s absenteeism.

49. Compliance with requirement of Registrar

A person who is required, by a requirement issued by the Registrar under section 48, to take

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any action must comply with that requirement within the time specified in the requirement.

Subdivision 4 – Actions if no compliance with requirement of Registrar

50. Report of non-compliance with Registrar’s requirement

- (1) A student, the parent of a student or a principal of a school may notify, in writing, the Registrar that the principal of a school, a school student or a parent of a school student has not complied with a requirement issued by the Registrar under section 48 within the time specified in the requirement.
- (2) On receipt of a notice, the Registrar –
 - (a) may investigate the reported non-compliance with the requirement; and
 - (b) is to determine to –
 - (i) re-convene a compulsory conciliation conference for recommendations in relation to the matter or to the student’s absenteeism; or
 - (ii) issue a further requirement under section 48; or
 - (iii) refer the recommendations of the original compulsory conciliation conference or, if no recommendation was made, the

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notice of the failure to make any recommendations made under section 46 and the report of the conciliator on that conference to the Principal Officer, Non-attendance for the making of a Compulsory Schooling Order; or

- (iv) if the reported non-compliance is non-compliance by a principal, notify, in writing, the governing body of the school and, in the case of a registered school, the Registration Board of the non-compliance.
- (3) If the Registrar refers the recommendations of the original compulsory conciliation conference or, if no recommendation was made, the notice of the failure to make any recommendations made under section 46 and the report of the conciliator on that conference to the Principal Officer, Non-attendance, the referral is to be accompanied by –
- (a) the notice of the non-compliance with the requirement of the Registrar received under subsection (1); and
 - (b) the results of the investigation conducted under subsection (2)(a); and
 - (c) the recommendation of the Registrar that a Compulsory Schooling Order be made and the reasons for that recommendation.

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- (4) If the non-compliance of a person with the requirement of the Registrar is referred to the Principal Officer, Non-attendance, section 51(1), (3) and (5) applies in relation to the referral, with any necessary modification and adaptation.
- (5) If the non-compliance of a person with the requirement of the Registrar is referred to the Principal Officer, Non-attendance, the Principal Officer, Non-attendance may –
 - (a) make a Compulsory Schooling Order; or
 - (b) require the Registrar to reassess the matter and proceed under subsection (2)(b)(i) or (ii).

***Subdivision 5 – Actions by Principal Officer, Non-attendance
on referral of student absence by Registrar***

51. Assessing and determining referral of compulsory conciliation conference’s recommendations, &c.

- (1) On receiving under section 48(3)(c) the referral of the recommendations of a compulsory conciliation conference or, if no recommendations were made, the notice of the failure to make any recommendations and the report of the conciliator, the Principal Officer, Non-attendance is to assess all the documents received with that referral.
- (2) In assessing the referral and accompanying documents, the Principal Officer, Non-attendance may require the Registrar or the conciliator to provide further information.

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- (3) After assessing the referral and accompanying documents, the Principal Officer, Non-attendance is to –
- (a) make a Compulsory Schooling Order; or
 - (b) require the Registrar to reassess the recommendations of the compulsory conciliation conference or, if no recommendations are made, the notice of the failure to make any recommendations and the report of the conciliator and either –
 - (i) proceed under section 48(3), to make one or more requirements or refer the matter back to the Principal Officer, Non-attendance; or
 - (ii) re-convene the compulsory conciliation conference.
- (4) The Principal Officer, Non-attendance may make a Compulsory Schooling Order only if satisfied that the order is necessary to secure, or is an appropriate method (in the circumstances) of securing, the attendance of the school student at a school.
- (5) On making a Compulsory Schooling Order, the Principal Officer, Non-attendance is to provide a copy of it to –
- (a) each of the school student’s parents named in the Order; and

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- (b) if the school student named in the Order participated in the compulsory conciliation conference and the Principal Officer, Non-attendance considers it appropriate, the school student; and
 - (c) the principal of the school named in the Order; and
 - (d) if the Principal Officer, Non-attendance considers it appropriate, another person who is, or has been, concerned in the management of the school student's absenteeism.
- (6) On making a Compulsory Schooling Order, the Principal Officer, Non-attendance is to provide a copy of it, and a copy of every document relevant to the making of the Order in his or her possession, to the Registrar.

Subdivision 6 – Compulsory Schooling Orders

52. What is a Compulsory Schooling Order?

A Compulsory Schooling Order is an order requiring that –

- (a) a school student attend a school as specified in the order; and
- (b) the parent of the school student specified in the order ensure that the student attends a school as specified in the order.

53. Compliance with Compulsory Schooling Order

- (1) The school student named in a Compulsory Schooling Order and his or her parent named in the Order must comply with it.

Penalty: In relation to a contravention by a parent named in the Compulsory Schooling Order, a fine not exceeding 15 penalty units and a fine not exceeding 2 penalty units for each day during which the offence continues.

- (2) In proceedings for an offence under subsection (1), a document purporting to be a Compulsory Schooling Order and purporting to be signed by the Principal Officer, Non-attendance or his or her delegate is taken to be evidence, until the contrary is shown –
- (a) that the document is a duly made Compulsory Schooling Order; and
 - (b) of the facts specified in the document; and
 - (c) that a copy of the document has been provided to the defendant.
- (3) If a court finds a parent guilty of an offence under subsection (1), the court, instead of or in addition to imposing a fine, may impose a community service order within the meaning of the *Sentencing Act 1997*.

54. Application for review of Compulsory Schooling Order

- (1) A parent aggrieved by the making of a Compulsory Schooling Order may apply for a review of the determination of the Principal Officer, Non-attendance to make that Order.
- (2) An application –
 - (a) is to be in writing; and
 - (b) is to be lodged with the Registrar within 14 days after the parent is provided with a copy of the Compulsory Schooling Order; and
 - (c) is to state the reasons why the Order should not have been made.

55. Constituting Review Panel to determine application for review of Compulsory Schooling Order

- (1) On receiving an application for a review of the determination of the Principal Officer, Non-attendance to make a Compulsory Schooling Order, the Registrar is to –
 - (a) provide a copy of the application to the Minister and to the Principal Officer, Non-attendance; and
 - (b) request the Minister to appoint a person listed on the register maintained under section 238 as the chairperson of the Review Panel for the purposes of determining the application.

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- (2) On appointing the chairperson of the Review Panel, the Minister is to notify the Registrar, in writing, of that appointment.
- (3) On being notified by the Minister of the appointment of the chairperson of the Review Panel, the Registrar is to –
 - (a) appoint 2 of the persons listed on the register maintained under section 238 as the other members of the Review Panel; and
 - (b) provide the Review Panel with the application for review and the documents provided by the Principal Officer, Non-attendance to the Registrar under section 51(6).

56. Review of Compulsory Schooling Order

- (1) In conducting a review of the determination of the Principal Officer, Non-attendance to make a Compulsory Schooling Order, the Review Panel may not hold hearings but is to conduct the review on a consideration of –
 - (a) the Compulsory Schooling Order; and
 - (b) the application for the review; and
 - (c) the written submissions and documents provided by the applicant in support of the application; and

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- (d) the documents provided by the Principal Officer, Non-attendance to the Registrar under section 51(6); and
 - (e) any further documents provided by the applicant and the Principal Officer, Non-attendance at the written request of the Review Panel.
- (2) In determining the application for review, the Review Panel is to –
- (a) if the Panel considers that the making of the Compulsory Schooling Order was appropriate, confirm the Order; or
 - (b) if the Panel considers that the making of the Compulsory Schooling Order was not appropriate, revoke the Order.
- (3) If the Review Panel revokes the Compulsory Schooling Order, the Panel is also to do one of the following:
- (a) require the Principal Officer, Non-attendance to proceed under section 51 and make another determination under that section, taking into account the comments and recommendations of the Panel;
 - (b) require the Registrar under section 48 to make a requirement, taking into account the comments and recommendations of the Panel;

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- (c) require the Registrar to reconvene the compulsory conciliation conference and provide the comments and recommendations of the Panel to the conference.
- (4) On determining the application, the Review Panel is to notify each of the following persons of its determination and the reasons for it:
 - (a) each person who received a copy of the Compulsory Schooling Order under section 51(5);
 - (b) the Registrar.

57. Effect of application for review of Compulsory Schooling Order

If a parent of a school student named in a Compulsory Schooling Order makes an application under section 54 for the review of the making of the Order, proceedings for an offence under section 16(1), section 33(2) or section 53(1) may not be taken in respect of any absence of the school student from the school specified in the Order during the period commencing on the making of the Order and ending on the day on which the parent named in the Order is provided with notice of the determination by the Review Panel of the application.

Subdivision 7 – Miscellaneous

58. Re-convening compulsory conciliation conference

If under this Division a compulsory conciliation conference is re-convened, this Division, other than section 42, applies in relation to the re-convening of the conference and the conference as if it were a new compulsory conciliation conference.

59. Confidentiality by person attending compulsory conciliation conference

- (1) A conciliator may direct a person who attends a compulsory conciliation conference, other than the student, not to disclose the information, or any information of a kind, specified in the direction.
- (2) The direction is to be in writing provided to the person to whom it relates.
- (3) A person provided with a direction under this section must not disclose the information, or any information of a kind, specified in the direction except as required or allowed by this Act.

Penalty: Fine not exceeding 50 penalty units.

60. Confidentiality by conciliator

A conciliator must not disclose any information obtained in conducting a compulsory

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conciliation conference to any person except as required or allowed by this Act.

Penalty: Fine not exceeding 50 penalty units.

Division 6 – Eliminating or ameliorating risks to health and safety of persons at school

61. Requiring information about child

(1) In this section –

prescribed authority means –

- (a) the principal of a school; or
 - (b) the administrative authority of a school; or
 - (c) any other person or organisation, or person or organisation that is a member of a class of persons or organisations, determined by the Ministerial instructions referred to in section 66 to be a prescribed authority.
- (2) A prescribed authority may request or require the provision of information, or a consent or authority, under this section in relation to a child for the following purposes:
- (a) to assess whether the enrolment or continued enrolment of the child in a school is likely to constitute a risk, because of the behaviour of the child, to the health and safety of the child or any

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- school student, teacher or other person at the school;
- (b) to develop and maintain strategies to support the child's access to education and eliminate or ameliorate any risk of the kind specified in paragraph (a).
- (3) A prescribed authority, in writing, may require the child's parent to provide to the prescribed authority, within the reasonable period specified in the requirement –
- (a) the information (not being the child's medical information) specified in the requirement; or
- (b) a consent or authority for the person or organisation specified in the consent or authority to provide the information (not being the child's medical information) specified in the consent or authority.
- (4) A prescribed authority, in writing, may require any of the following persons or organisations to provide to the prescribed authority, within the reasonable period specified in the requirement, the information specified in the requirement:
- (a) the principal of a school;
- (b) the administrative authority of a school;
- (c) the Secretary;
- (d) the Registrar;
- (e) the Commissioner of Police;

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- (f) a non-government body or organisation, other than a hospital, that provides services to children and is wholly or partly funded by the Tasmanian government or the Commonwealth government;
 - (g) a non-government body or organisation, other than a hospital, that under a contract entered into with the Tasmanian government or the Commonwealth government, or an agency or instrumentality of the Tasmanian government or the Commonwealth government, performs on behalf of that government, agency or instrumentality functions in relation to children which would otherwise be performed by that government, agency or instrumentality;
 - (h) the Secretary of the department responsible in relation to the administration of the *Public Health Act 1997*;
 - (i) the Secretary of the department responsible in relation to the administration of the *Criminal Code Act 1924*;
 - (j) the chief executive officer of TasTAFE;
 - (k) a person or organisation prescribed by the regulations.
- (5) In requiring, under subsection (3), a person or organisation to provide information, a prescribed

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authority may disclose to the person or organisation as much information about the child as it considers necessary to assist the person or organisation to provide the information sought by the prescribed authority.

- (6) If the child's parent has provided his or her consent or authority for another person to provide information in accordance with a requirement under subsection (3), a prescribed authority, in writing, may request that other person to provide to the prescribed authority the information specified in the consent or authority.
- (7) Nothing in this section affects the operation of section 12(2) or (3).

62. Obligation to provide information about child

- (1) A person or organisation has a duty to comply with a requirement made under section 61(4).
- (2) Despite subsection (1), a person or organisation is not required to provide information in compliance with a requirement made under section 61(4) if –
 - (a) that information is exempt information under section 30 of the *Right to Information Act 2009*; or
 - (b) providing that information would contravene any law other than –
 - (i) the *Personal Information Protection Act 2004*; or

- (ii) a law prescribed by the regulations.

63. Requesting medical information

- (1) In this section –

prescribed authority has the same meaning as in section 61.

- (2) A prescribed authority may request the parent of a child to provide medical information about the child, or a consent or authority authorising the prescribed authority to have access to that information, for the following purposes:
 - (a) to assess whether the enrolment or continued enrolment of the child in a school is likely to constitute a risk, because of the behaviour of the child, to the health and safety of the child or any student, teacher or other person at the school;
 - (b) to develop and maintain strategies to support the child's access to education and eliminate or ameliorate any risk of the kind specified in paragraph (a).
- (3) A request under subsection (2) –
 - (a) is to be in writing; and
 - (b) may request that the information specified in the request, or the consent or authority, be provided within the

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reasonable period specified in the request.

- (4) A prescribed authority must not use or disclose any medical information obtained from a child's parent, or by the use of the consent or authority provided by the child's parent, for any purposes other than the purposes for which it was obtained.

Penalty: Fine not exceeding 50 penalty units.

64. Strategies to eliminate or ameliorate risks to health and safety of persons at school

- (1) The principal of a school, in accordance with the Ministerial instructions, is to develop and maintain strategies to eliminate or ameliorate the likelihood of a child who is attending, or will attend, the school posing a risk to the health and safety of himself or herself or any school student, teacher or other person at the school.
- (2) In developing and maintaining strategies under subsection (1), the principal is to consult with, if practicable and subject to the Ministerial instructions –
- (a) the parent of the child; and
 - (b) the child if the principal considers the child mature enough to be included; and
 - (c) any other person, including a person in the health profession, that the principal considers may be able to aid in the

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development and maintenance of effective strategies.

- (3) In developing and maintaining strategies under subsection (1), the principal is to provide the persons consulted under subsection (2) with all relevant information in his or her possession.
- (4) The principal is to ensure that each of the following persons is provided with a copy of the strategies developed and maintained under subsection (1):
 - (a) if the principal considers that the child is mature enough to understand the strategies, the child;
 - (b) each parent of the child, if practicable;
 - (c) those teachers at the school that the principal considers are relevant to the implementation of the strategies or are likely to come into contact with the child;
 - (d) all other persons employed at the school who are likely to come into contact with the child attending the school.
- (5) The principal and each person who has received a copy of the strategies developed and maintained under subsection (1) is to comply with them, as far as reasonably practicable and to the best of his or her abilities.

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65. Disclosing information obtained under this Division

(1) In this section –

prescribed authority has the same meaning as
in section 61.

(2) A prescribed authority that obtains information under this Division, other than information provided to a person or organisation under section 61(5), may provide that information to –

- (a) the principal of a school; and
- (b) the administrative authority of a school;
and
- (c) the Secretary; and
- (d) a person prescribed by the regulations.

(3) Information may be provided under subsection (2) only if –

- (a) it is provided for the purposes of this Act; and
- (b) it is provided in accordance with any Ministerial instructions.

(4) Despite subsection (2), information may be provided under that subsection only if doing so would not contravene the *Children, Young Persons and Their Families Act 1997*.

66. Ministerial instructions

- (1) The Minister is to make Ministerial instructions for the purposes of this Division.
- (2) The Ministerial instructions are to include –
 - (a) the general principles a person is to take into account when performing or exercising a function or power under this Division; and
 - (b) the matters that are likely to constitute –
 - (i) a risk to the health and safety of a child if attending a school; or
 - (ii) a child at a school posing a risk to the health and safety of other school students, teachers or other persons at the school; and
 - (c) the manner of assessing those risks; and
 - (d) the structure of strategies developed by a principal to eliminate or ameliorate those risks; and
 - (e) the circumstances in which the principal of a school is not required to consult with a parent of a child or a child in developing and maintaining strategies to eliminate or ameliorate those risks; and
 - (f) the kind of information that may be required under this Division in relation to a child by a prescribed authority, within the meaning of section 61; and

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- (g) the manner of keeping information obtained by a prescribed authority under this Division; and
 - (h) the disposal of information obtained by a prescribed authority under this Division.
- (3) The Ministerial instructions may include –
- (a) the persons, or classes of persons, who are prescribed to be prescribed authorities for the purposes of paragraph (c) of the definition of *prescribed authority* in section 61(1); and
 - (b) the circumstances in which, or the reasons for which, a person or organisation may refuse to comply with a requirement made under section 61(4); and
 - (c) any other matter the Minister considers appropriate.

Division 7 – Home education

Subdivision 1 – Approved home education programs

67. Application for approval of proposed home education program

- (1) A parent who intends to home educate his or her child may apply for approval of a proposed home education program that is to be provided to the child by that parent during the period of one year specified in the application.

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- (2) Each home educator who is providing a current approved home education program to a child may apply, separately, and at least 12 weeks, but not more than 15 weeks, before that current program expires, for the approval of a proposed home education program that is to be provided to the child by that home educator during the period of one year that commences immediately after the expiry of that current program.
- (3) Despite subsections (1) and (2), if 2 or more parents or home educators of a child are to provide a single proposed home education program to the child, they may both apply for approval of the proposed program on the one application.
- (4) An application under this section –
 - (a) is to be in a form approved by the Minister; and
 - (b) is to include the proposed home education program; and
 - (c) if the applicant –
 - (i) is providing a current approved home education program to a child at the time of making the application; or
 - (ii) at any time in the immediately preceding period of 12 months provided an approved home education program to a child –

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is to include a summary of the activities and learning undertaken in accordance with that approved learning program and the standards prescribed by the regulations for approved home education programs; and

- (d) is to include any other information required by the Ministerial instructions.
- (5) A proposed home education program is to specify the name and address of the parent who is to provide the home education and, if the home education is provided by more than one parent, is to indicate which areas of the program are to be provided by which parent.
- (6) A proposed home education program may include part-time attendance of the child at one school for the provision of a course for the reasons specified in the proposed program.
- (7) Part-time attendance of a child at a school may be included in the proposed home education program only if the principal of the school has provided to the applicant parent or home educator, in writing, his or her in-principle approval of the future enrolment of the child at the school for part-time attendance and that approval is included in the application under this section.
- (8) The Registrar may require the applicant parent or home educator, in writing, to provide any further information the Registrar considers

necessary for the purposes of considering the application.

68. Report of registration officer

- (1) Before determining an application for approval of a proposed home education program, the Registrar is to obtain a report from a registration officer in relation to the application.
- (2) The report is to include –
 - (a) a summary of the visit of the registration officer to the applicant; and
 - (b) an assessment of the application and proposed home education program against the standards prescribed by the regulations for approved home education programs; and
 - (c) any other information the registration officer considers relevant; and
 - (d) recommendations relating to whether the application be granted, whether the proposed home education program be amended and then be granted and whether any grant of the application be subject to conditions.
- (3) On completing the report, the registration officer is to provide a copy of it to the Registrar and to the Tasmanian Home Education Advisory Council.

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69. Determination of application for approval of proposed home education program

(1) In this section –

applicant parent means a parent of a school-aged child or youth who has applied for approval of a proposed home education program.

(2) On receipt of an application for the approval of a proposed home education program, the Registrar is to –

(a) approve the proposed program; or

(b) refuse to approve the proposed program.

(3) Before making a determination under subsection (2), the Registrar is to –

(a) seek and consider advice from the Tasmanian Home Education Advisory Council in relation to the proposed home education program; and

(b) consider the report of the registration officer provided under section 68; and

(c) consider the proposed home education program and assess it against the standards prescribed by the regulations for approved home education programs.

(4) The Registrar may approve a proposed home education program only if satisfied that the proposed program meets the standards

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prescribed by the regulations for approved home education programs.

- (5) The Registrar is to refuse to approve a proposed home education program if the Registrar is not satisfied as specified in subsection (4).
- (6) The Registrar may refuse to approve a proposed home education program if the child or youth has been absent, without authorisation under this Act, from attendance at a school or an approved learning program, or a combination of both, for more than 20 days during the period of 12 months immediately preceding the making of the application.
- (7) When considering and assessing a proposed home education program, the Registrar may request the applicant parent, in writing, to amend the proposed program for the reasons specified in the request.
- (8) If the applicant parent provides an amended proposed home education program to the Registrar before he or she makes a determination under subsection (2), that amended proposed program is taken, for the purposes of this section, to be the proposed home education program included in the application.
- (9) On making a determination under subsection (2), the Registrar is to notify the applicant parent, in writing, of that determination and, if the determination is a refusal to approve the proposed home education program, of the reason for that refusal.

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- (10) On approving a proposed home education program, the Registrar is to enter the approval in the register maintained under section 225.

70. Statement of status as home educator

If the Registrar approves a proposed home education program, he or she is to include in the notice of the approval provided to a parent under section 69(9) the name of each parent who is a home educator providing home education under the program.

71. Approved home education program subject to conditions

- (1) An approved home education program is subject to the conditions determined by the Registrar.
- (2) The Registrar, at any time and if he or she considers it in the best interests of the school-aged child or youth concerned, may –
- (a) impose conditions or further conditions on the approved home education program; or
 - (b) vary the conditions to which the approved home education program is subject; or
 - (c) remove any, or all, of the conditions to which the approved home education program is subject.

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- (3) Before imposing a condition, or varying a condition in a manner that negatively affects the home educator, the Registrar is to seek and consider the advice of the Tasmanian Home Education Advisory Council.

72. Minor amendment of home education program

- (1) In this section –

minor, in relation to an amendment of an approved home education program, means an amendment that –

- (a) does not change the outcomes of the program; and
 - (b) does not significantly vary the pedagogy of the program; and
 - (c) is not of a class or kind that the Ministerial instructions specify to be a significant amendment.
- (2) A home educator may make a minor amendment of an approved home education program provided by him or her without obtaining the approval of the Registrar to the amendment.

73. Application to amend approved home education program

- (1) At any time, a home educator may apply to the Registrar for approval of a proposed amendment of an approved home education program.

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- (2) An application under this section is to –
 - (a) be in a form approved by the Minister;
and
 - (b) include the proposed amendment of the home education program; and
 - (c) contain any other information required by the Ministerial instructions.
- (3) A proposed amendment of an approved home education program may include part-time attendance of the child at one school for the provision of a course for the reasons specified in the proposed amendment.
- (4) Part-time attendance of a child at one school may be included in the proposed amendment only if –
 - (a) the child is not to attend the school for more than 2 full school days, or more than the equivalent of 2 full school days, in any school week; and
 - (b) the principal of the school to be attended has provided to the applicant home educator, in writing, his or her in-principle approval of the future enrolment of the child for part-time attendance at the school and that in-principle approval is included in the application under this section.
- (5) Despite subsection (4)(a), enrolment for part-time attendance at one school for more than 2

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full school days, or more than the equivalent of 2 full school days, in any school week may be included in the proposed home education program if the principal of the school –

- (a) is satisfied that it is intended that the child will not be home educated in the following school year but will be enrolled at a school on a full-time basis; and
 - (b) has included a statement to that effect in the in-principle approval referred to in subsection (4)(b).
- (6) The Registrar may require the applicant home educator, in writing, to provide any further information the Registrar considers necessary for the purposes of considering the application.

74. Determination of application to amend approved home education program

- (1) On receipt of an application for the approval of an amendment of an approved home education program, the Registrar is to –
 - (a) approve the proposed amendment; or
 - (b) refuse to approve the proposed amendment.
- (2) The Registrar may approve an amendment of an approved home education program only if satisfied that the program, if so amended, would

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meet the standards prescribed by the regulations for approved home education programs.

- (3) Before making a determination under subsection (1), the Registrar is to –
 - (a) seek and consider advice from the Tasmanian Home Education Advisory Council in relation to the application; and
 - (b) consider the proposed amendment and assess it against the standards prescribed by the regulations for approved home education programs.
- (4) When considering and assessing a proposed amendment, the Registrar may request the applicant parent or home educator, in writing, to amend the proposed amendment for the reasons specified in the request.
- (5) If the applicant parent or home educator provides an amended proposed amendment of the Registrar before he or she makes a determination under subsection (1), that amended amendment is taken, for the purposes of this section, to be the proposed amendment included in the application.
- (6) On making a determination under subsection (1), the Registrar is to notify the applicant home educator, in writing, of that determination and, if the determination is a refusal to approve the proposed amendment, of the reason for that refusal.

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- (7) On approving an amendment of an approved home education program, the Registrar is to amend the register maintained under section 225 accordingly.

75. Continuing assessment of approved home education program

- (1) At any time during the currency of an approved home education, the Registrar may carry out an assessment of the program and its provision to the school-aged child or youth to ensure that –
- (a) the program continues to meet the standards prescribed by the regulations in relation to approved home education programs; and
 - (b) the program is being provided to a sufficient extent.
- (2) In carrying out the assessment, the Registrar is to obtain a report from a registration officer in relation to the approved home education program and its provision by the home educator.
- (3) The report is to include –
- (a) an assessment of the approved home education program and its provision by the home educator against the standards prescribed by the regulations for approved home education programs; and
 - (b) any other information the registration officer considers relevant; and

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- (c) recommendations relating to –
 - (i) whether the approved home education program should continue; and
 - (ii) if the registration officer considers that the program should be amended, what those amendments should be; and
 - (iii) whether the approval of the program should be made subject to conditions or the conditions to which the approval is subject should be amended.
- (4) On completing the report, the registration officer is to provide a copy of it to the Registrar and to the Tasmanian Home Education Advisory Council.
- (5) In carrying out an assessment, the Registrar –
 - (a) in writing, may require the home educator to provide the information and documents that the Registrar considers necessary to complete the assessment; and
 - (b) may exercise his or her powers under this Act and the regulations.
- (6) A requirement to provide information or documents may require that the information or document be delivered –

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- (a) at a specified place; and
 - (b) to the Registrar or a registration officer;
and
 - (c) within a specified period; and
 - (d) in person, by mail or in another specified
manner.
- (7) In carrying out an assessment, the Registrar is to –
- (a) seek and consider advice from the
Tasmanian Home Education Advisory
Council in relation to the assessment; and
 - (b) consider the report of the registration
officer provided under subsection (4);
and
 - (c) consider the approved home education
program and the manner in which it is
being provided and assess it against the
standards prescribed by the regulations
for approved home education programs.
- (8) In carrying out an assessment, the Registrar is to
take into account any relevant Ministerial
instructions in determining whether the approved
home education program is being provided to a
sufficient extent.

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76. Amendment of approved home education program by Registrar

- (1) At any time, the Registrar may amend an approved home education program in respect of a school-aged child or youth if he or she considers it necessary because of a change in –
 - (a) the standards prescribed by the regulations for approved home education programs; or
 - (b) any other circumstances the Registrar considers relevant.
- (2) The Registrar must consult with all home educators likely to be affected by the proposed amendment before amending the approved home education program.
- (3) On amending an approved home education program, the Registrar is to provide a copy of the amendment or amended approved home education program to each home educator providing home education under the program and, if the Registrar considers it appropriate, to the school-aged child or youth.
- (4) On approving an amendment of an approved home education program, the Registrar is to amend the register maintained under section 225 accordingly.

77. Revocation of approval of home education program

- (1) The Registrar may revoke the approval of a home education program in respect of a school-aged child or youth if –
 - (a) the home educator has contravened any condition to which the approval is subject or has contravened this Act; or
 - (b) the Registrar is satisfied that the home education program, or its provision by the home educator, no longer meets the standards prescribed by the regulations for approved home education programs; or
 - (c) the Registrar is satisfied that the approved home education program for the school-aged child or youth is not being provided to a sufficient extent; or
 - (d) the Registrar otherwise is satisfied that it is in the best interests of the school-aged child or youth to do so.
- (2) For the purposes of subsection (1)(c), in determining whether an approved home education program is being provided to a sufficient extent, the Registrar is to take into account any relevant Ministerial instructions.
- (3) Before revoking an approved home education program, the Registrar is to seek and consider advice from the Tasmanian Home Education Advisory Council.

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- (4) On revoking the approval of a home education program, the Registrar, in writing, is to notify each home educator providing the program of –
- (a) the revocation; and
 - (b) the reasons for the revocation; and
 - (c) the day by which the requirement under section 84, for the enrolment of the child in a school or the provision to the Secretary of a proposed learning program, is to be complied with unless the child is exempt from school enrolment or participation in an approved learning program.
- (5) On revoking the approval of a home education program, the Registrar is to amend the register maintained under section 225 accordingly.

78. Effect of revocation in certain circumstances

- (1) This section applies if the approval of an approved home education program is revoked because of the failure of a parent to –
- (a) adequately provide the program to the child; or
 - (b) comply with the conditions to which the approval is subject –

and the parent applies for the approval of another proposed home education program.

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- (2) In considering whether to approve the proposed home education program under section 69, the Registrar, Home Education may take the failure of the parent referred to in subsection (1) into account and, if he or she considers the parent is likely again to fail to adequately provide the approved home education program or comply with the conditions to which the approved home education program would be subject, may refuse to approve the proposed home education program on that ground.

79. Review of determination relating to approved home education program

A person aggrieved by any of the following determinations of the Registrar may apply to the Magistrates Court (Administrative Appeals Division) for a review of that decision and that decision is a reviewable decision for the purposes of the *Magistrates Court (Administrative Appeals Division) Act 2001*:

- (a) a refusal to approve a proposed home education program under section 69(2)(b);
- (b) the imposition or variation of a condition to which an approved home education program is subject under section 71(1);
- (c) a refusal to approve a proposed amendment of an approved home education program under section 74(1)(b);

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- (d) the amendment of an approved home education program under section 76(1);
- (e) the revocation of the approval of a home education program under section 77.

***Subdivision 2 – Rights and duties of home educators,
children and schools***

80. Enrolment at school for part-time attendance by home educated child

- (1) A parent of a child who –
 - (a) is a home educator of the child; or
 - (b) intends to become a home educator of the child –

may apply to enrol the child at one school for part-time attendance at the school in accordance with the approved home education program or the proposed home education program.

- (2) An application for enrolment of a child is to include any information the Ministerial instructions require in relation to –
 - (a) the identity of the child; and
 - (b) the identity of the parent of the child; and
 - (c) the place of residence of the child; and
 - (d) any other matter the Secretary considers relevant.

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- (3) If requested by the school's principal, a parent wishing to enrol a child under this section is to provide evidence of –
- (a) the age of the child; and
 - (b) the family name of the child; and
 - (c) the parent's guardianship, the parent's parental responsibility under a parenting plan, or parenting order, under Part VII of the *Family Law Act 1975* of the Commonwealth or the parent's other care and control of the child.
- (4) The principal of the school, in assessing the application –
- (a) is to do so in accordance with any relevant guidelines issued under section 89; and
 - (b) is to ensure, as far as reasonably practicable, that the child –
 - (i) is not enrolled at that school and another school; and
 - (ii) is not enrolled at that school for part-time attendance of more than 2 full school days, or more than the equivalent of 2 full school days, in any school week.
- (5) Despite subsection (4)(b), the principal of the school may allow the enrolment for part-time attendance of a child or youth at that school for

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more than 2 full school days, or more than the equivalent of 2 full school days, in any school week if satisfied that it is intended that the child will not be home educated in the following school year but will be enrolled at a school on a full-time basis.

81. Part-time attendance at school by home educated child

- (1) If a child is enrolled under this Subdivision in a school for part-time attendance, the parent of the child must ensure that the child attends school for each whole day or part day for which he or she is required to attend under that enrolment unless exempted or excused from attendance under this Part.

Penalty: Fine not exceeding 15 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

- (2) For the avoidance of doubt, sections 18 and 19 apply in relation to a school-aged child, and sections 35 and 36 apply in relation to a youth, for the purposes of subsection (1).
- (3) A principal must ensure that a register is kept recording the attendance or absence of each child referred to in subsection (1).
- (4) For the purposes of this section, a child may attend a school by using a form of electronic

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communication, within the meaning of the *Electronic Transactions Act 2000*, if –

- (a) the principal of the school has approved attendance at the school by that form of electronic communication; and
- (b) the principal has approved the child's attendance at the school by using that form of electronic communication.

82. Objection to participation in school activities

For the avoidance of doubt, section 39 applies in relation to a school-aged child or youth who is enrolled under this Subdivision in a school for part-time attendance.

83. Notification of absence or failure to complete courses

(1) If –

- (a) a school-aged child or youth is enrolled under this Subdivision in a school for part-time attendance; and
- (b) the child or youth –
 - (i) fails to attend the school in accordance with his or her enrolment and the school's attendance policy; or
 - (ii) fails to complete any course for which he or she is enrolled –

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the principal is to notify the Registrar of that failure.

- (2) On receipt of a notice under subsection (1), the Registrar is to carry out an assessment under section 75.

84. Parent to enrol child in school, &c., on revocation of approval of approved home education program

- (1) This section applies if a school-aged child or youth is being home educated and the approval of an approved home education program is revoked.
- (2) A parent of a school-aged child must enrol the child in a school by the day specified in the notice of the revocation of the approval of the approved home education program provided to the parent under section 77(4) unless the child is exempted from enrolment under section 13.

Penalty: Fine not exceeding 15 penalty units.

- (3) A parent of a school-aged child must notify the Registrar of the name of the school in which the school-aged child has been enrolled in accordance with subsection (2), or that the child is exempted from enrolment under section 13, not later than 7 days –
- (a) after the child is, or is to be, enrolled at a school under subsection (2); or
- (b) if the child is exempted from enrolment, after the day specified in the notice of the

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revocation of the approval of the approved home education program provided to the parent under section 77(4).

Penalty: Fine not exceeding 15 penalty units.

- (4) A parent of a youth, and the youth, must ensure that, by the day specified in the notice of the revocation of the approval of the approved home education program provided to the parent under section 77(4) –
- (a) a proposed learning program for the youth is prepared and provided to the Secretary unless the youth is exempted from participation in an approved learning program under section 26; or
 - (b) if the youth is so exempted from participation in an approved learning program, notice of that exemption, in writing, is provided to the Secretary –

unless the parent or youth has a reasonable excuse.

Penalty: In the case of a contravention by a parent, a fine not exceeding 15 penalty units.

- (5) On the provision of a proposed learning program for a youth to the Secretary –
- (a) if the proposed learning program consists of the youth being enrolled at, and full-time attendance at, a school, the

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proposed learning program becomes the approved learning program for the youth; and

- (b) in any other case, the Secretary may approve the proposed learning program, or amend it and approve the amended proposed learning program, as the approved learning program for the youth.
- (6) Before amending a proposed learning program, the Secretary is to consult the parent of the youth and the youth, as the Secretary considers appropriate.
- (7) On the approval of a proposed learning program, the Secretary is to notify the parent of the youth and, if the Secretary considers it appropriate, the youth, in writing, of that approval and provide a copy of the approved learning program to –
- (a) the parent of the youth; and
 - (b) the youth; and
 - (c) each provider under the approved learning program; and
 - (d) the Registrar.
- (8) An approved learning program takes effect under this section –
- (a) on the day it is provided to the Secretary if the proposed learning program consists of the youth being enrolled at, and full-time attendance at, a school; or

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- (b) in any other case, when the parent of the youth receives notice under subsection (7) of the approval of the proposed learning program, or that program as amended, as the approved learning program for the youth.
- (9) The parent of a youth referred to in subsection (4) must ensure that –
 - (a) if the proposed learning program consists of enrolment at, and full-time attendance at, a school, the youth is enrolled at a school within the period referred to in that subsection; or
 - (b) in any other case, the youth is participating in the approved learning program not later than 14 days, or such longer period as the Secretary allows, after the day on which the approved learning program takes effect –

unless the parent has a reasonable excuse.

Penalty: Fine not exceeding 15 penalty units.

- (10) Without limiting subsection (4) or (9), it is a reasonable excuse for a parent that –
 - (a) the youth primarily resides with another parent and the first parent believes, on reasonable grounds, that the other parent is ensuring that the youth participates full time in an approved learning program or is being home educated; or

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- (b) in all the circumstances, the parent is not reasonably able to ensure that the youth participates full time in an approved learning program or is home educated.
- (11) If, before the day specified in the notice of the revocation of the approval of the approved home education program that is provided to the parent under section 77(4), the Secretary –
 - (a) receives notice that a youth is exempted under section 26 from the requirement to participate in an approved learning program; or
 - (b) under that section exempts a youth from the requirement to participate in an approved learning program –the Secretary is to notify the Registrar of that exemption.
- (12) At the request of the Registrar, the principal of the school at which a school-aged child or youth is enrolled, or purportedly enrolled, may provide information to the Registrar relating to whether or not the child or youth is enrolled and his or her attendance.

85. Providing learning program or notifying of home education

- (1) This section applies in relation to a school-aged child who is being home educated.

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- (2) During the year of home education that is equivalent to Year 10, but not later than 24 December in that year, the parent of the school-aged child, and the child, must ensure that –
- (a) if the child is not to be home educated following the completion of that year of home education, notice of a proposed learning program for the child to participate in following the completion of that year of home education is provided to the Secretary in accordance with this section; or
 - (b) if the child is to be home educated following the completion of that year of home education, notice that the child is to be home educated following the completion of that year is provided to the Registrar in accordance with this section.

Penalty: In the case of a contravention by a parent, a fine not exceeding 15 penalty units.

- (3) A notice under subsection (2)(a) is to –
- (a) be in a form approved by the Minister; and
 - (b) include the proposed learning program.
- (4) A notice under subsection (2)(b) is to be in a form approved by the Minister.

Subdivision 3 – Home education assessments

86. Purposes of home education assessments

A registration officer may carry out an assessment for any one or more of the following purposes:

- (a) making a report under section 68 in relation to an application for approval of a proposed home education program;
- (b) making a report under section 74 in relation to an application for approval of an amendment of an approved home education program;
- (c) making a report under section 75 in relation to the continuing assessment of an approved home education program.

87. Carrying out home education assessment

- (1) The Registrar is to ensure that home education assessments are carried out as necessary for the purposes specified in section 86.
- (2) In carrying out a home education assessment, a registration officer is to comply with the Ministerial instructions.
- (3) In carrying out a home education assessment, a registration officer may –
 - (a) with the consent of the home educator or of the applicant for approval of a

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- proposed home education program, enter and remain in the premises at which home education is, or is to be, provided to a school-aged child or youth; and
- (b) with the consent of the home educator or of the applicant for approval of a proposed home education program, view that part of those premises that is, or is to be, used in the provision of home education to a school-aged child or youth and inspect the equipment and documents associated with the provision of that home education; and
 - (c) ask the home educator, applicant for approval of a proposed home education program or school-aged child or youth being, or to be, home educated questions that are relevant to the provision of home education by the home educator or applicant; and
 - (d) in writing, request the home educator or applicant for approval of a proposed home education program to provide further information or documents to the registration officer in accordance with the request.
- (4) A request may request that the information or document be delivered –
- (a) within the specified reasonable time; and
 - (b) at a specified place; and

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- (c) in person, by mail or in another specified manner.
- (5) If asked by –
- (a) a home educator; or
 - (b) an applicant for approval of a proposed home education program; or
 - (c) a school-aged child or youth being, or to be, home educated –

to produce his or her identity card, the registration officer may not further exercise any powers under this section unless he or she produces the identity card.

Division 8 – Miscellaneous

88. Particulars of child

- (1) The Minister, by notice in writing, may require a parent of a school-aged child or youth to supply particulars of the child or youth as specified in the notice.
- (2) A parent must complete the notice as required and return it to the person, and within the period, specified in the notice.

Penalty: Fine not exceeding 5 penalty units.

89. Guidelines relating to enrolment for part-time schooling

- (1) The administrative body for a school is to issue guidelines in relation to the enrolment, under this Division, of a school-aged child or youth in the school for part-time attendance at the school in accordance with an approved home education program or proposed home education program.
- (2) Guidelines issued under this section –
 - (a) are to –
 - (i) specify the day by which applications for enrolment are to be lodged with the school principal concerned; and
 - (ii) set out the process of assessment of applications for enrolment; and
 - (iii) set out the dress code requirements for the school-aged child or youth if the enrolment is accepted; and
 - (iv) specify the fees and levies to be paid and set out the amount of, or the calculation processes for, those fees and levies and the payment processes for those fees and levies if enrolment is accepted; and
 - (v) set out the manner in which any extracurricular and adjunct

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services will be made available to the school-aged child or youth if enrolment is accepted; and

- (b) may include or specify any other matter relating to the attendance of the school-aged child or youth at the school if the enrolment is accepted.
- (3) The administrative body, from time to time, may rescind the guidelines and substitute new guidelines.
- (4) The guidelines are to be published on the website of the administrative body or school or, if there is no such website, in such other manner as the administrative body considers appropriate.
- (5) Guidelines, and a rescission of the guidelines, issued under this section are not statutory rules for the purposes of the *Rules Publication Act 1953*.

90. Statement of Year 10 completion by principal

- (1) If the principal of a school is satisfied that a student at the school has completed Year 10, the principal is to issue the student with a statement stating that the student has completed Year 10.
- (2) For the purposes of subsection (1), a student completes Year 10 if he or she, in the opinion of the principal, meets the requirements set out in the Ministerial instructions in relation to completion of Year 10.

91. Statement of Year 10 completion by Registrar

- (1) If the Registrar is satisfied that a person who is being home educated has completed a year of home education that is the equivalent of Year 10, the Registrar is to issue the person with a certificate stating that the person has completed Year 10.
- (2) For the purposes of subsection (1), a person who is home educated completes a year of home education that is the equivalent of Year 10 if he or she, in the opinion of the Registrar, has been provided with the approved home education program for that year to a sufficient extent.
- (3) In determining whether a person has been provided with the approved home education program to a sufficient extent, the Registrar is to take into account any relevant Ministerial instructions.

92. Year 12 completion certificate by principal

- (1) If the principal of a school is satisfied that a student at the school has completed Year 12, the principal is to issue the student with a certificate stating that the student has completed Year 12.
- (2) For the purposes of subsection (1), a student completes Year 12 if he or she, in the opinion of the principal, meets the requirements set out in the Ministerial instructions in relation to completion of Year 12.

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93. Year 12 completion certificate by Registrar

- (1) If the Registrar is satisfied that a person who is being home educated has completed a year of home education that is the equivalent of Year 12, the Registrar is to issue the person with a certificate stating that the person has completed Year 12.
- (2) For the purposes of subsection (1), a person who is home educated completes a year of home education that is the equivalent of Year 12 if he or she, in the opinion of the Registrar, has been provided with the approved home education program for that year to a sufficient extent.
- (3) In determining whether a person has been provided with the approved home education program to a sufficient extent, the Registrar is to take into account any relevant Ministerial instructions.

**PART 4 – EDUCATION AND TRAINING AFTER
SECONDARY EDUCATION**

94. Entitlement to complete secondary education at State school

- (1) If a person is not a school-aged child and has not completed secondary education at the level provided by State schools, that person is entitled to attend a State school –
 - (a) until the person completes the final year of secondary education provided by State schools; or
 - (b) for a period not exceeding 8 consecutive terms of full-time study –

whichever occurs first.

- (2) If a person is entitled to attend a State school under subsection (1), the Secretary may determine, by notice in writing provided to the person, which schools, or which class of schools, the person may enrol at and attend.

95. Attending State school after compulsory education

- (1) If a youth or person who is not a child has completed his or her approved learning program, the youth, youth's parent or person may apply to the principal of a State school for enrolment of the youth or person at the school for the purpose of undertaking further education at the school for not more than 4 consecutive terms of full-time study.

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- (2) An application is to be in a form approved by the Secretary.
- (3) The principal is to assess the application in accordance with the Secretary's instructions.
- (4) After assessing the application, the principal may –
 - (a) grant the application, with or without conditions, and enrol the person; or
 - (b) refuse to grant the application.
- (5) After determining the application, the principal is to notify the applicant, in writing, of the determination.

96. Entitlement to attend TasTAFE

- (1) In this section –

post-Year 10 secondary education and training means secondary education and training that is usually undertaken by a person following the completion of Year 10.
- (2) If a person is not a school-aged child and has not completed 8 consecutive terms of full-time study of post-Year 10 secondary education and training, that person is entitled to attend TasTAFE for a period not exceeding 8 consecutive terms of full-time study.

PART 5 – STATE EDUCATION

Division 1 – Schools

97. State schools

- (1) The Minister may establish any school necessary for the purposes of providing educational instruction and training to children in Tasmania.
- (2) On establishing a school, the Minister may determine –
 - (a) the intake area for the school; or
 - (b) that the school does not have an intake area but that the classes of school-aged children, youths and persons specified in the determination are eligible to enrol at the school.
- (3) If the Minister under subsection (2) or (6) determines an intake area for a school –
 - (a) the Minister is to publish, in such manner as the Minister considers appropriate, the intake area for the school; and
 - (b) section 99(3) applies in relation to the school and that intake area.
- (4) If the Minister under subsection (2) or (6) determines that a school does not have an intake area –
 - (a) the Minister is to publish, in such manner as the Minister considers appropriate, the

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classes of school-aged children, youths and persons, specified in that determination, who are eligible to enrol at the school; and

- (b) section 99(4) applies in relation to the school and those classes of school-aged children, youths and persons.
- (5) The Minister, in any circumstances the Minister considers appropriate, may –
- (a) amalgamate State schools; and
 - (b) close any State school either temporarily or permanently.
- (6) On amalgamating 2 or more schools, the Minister may determine –
- (a) the intake area for the newly amalgamated school; or
 - (b) that the newly amalgamated school does not have an intake area but that the classes of school-aged children, youths and persons specified in the determination are eligible to enrol at the school.
- (7) Before closing a State school permanently, the Minister is to consult with the school association for that school.
- (8) In any consultation under subsection (7), the Minister is to make available a statement on the

likely educational, economic and social impact of the closure of the State school.

98. Changing purpose of school

(1) In this section –

original non-intake area determination
means a determination made under section 97(2)(b).

(2) The Minister, at any time, may determine –

- (a) that a State school that, immediately before the determination, had an intake area no longer does so; and
- (b) that the classes of school-aged children, youths and persons specified in the determination are eligible to enrol at the school; and
- (c) if appropriate, that the earlier determination specifying the intake area for the school is rescinded.

(3) The Minister, at any time, may determine –

- (a) that a State school that, immediately before the determination, did not have an intake area, has the intake area specified in the determination; and
- (b) that the earlier determination that specified the classes of school-aged children, youths and persons who were

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eligible to enrol at the school is rescinded.

- (4) The Minister, at any time, may amend an original non-intake area determination by –
 - (a) adding a class of school-aged children, youths and persons who are eligible to enrol in the State school to which the determination relates; or
 - (b) omitting a class of school-aged children, youths and persons who, immediately before the amendment, are eligible to enrol in the State school to which the determination relates; or
 - (c) omitting any or all classes of school-aged children, youths and persons who, immediately before the amendment, are eligible to enrol in the State school to which the determination relates and substituting other classes of school-aged children, youths and persons who are eligible to enrol in the school.
- (5) The Minister is to publish, in such manner as the Minister considers appropriate, a determination made under this section and either the intake area for the relevant school or the classes of school-aged children, youths and persons who are eligible to enrol at the school.
- (6) If the Minister makes a determination under subsection (2), section 99(4) applies in relation to the school and the classes of school-aged

children, youths and persons specified in the determination.

- (7) If the Minister makes a determination under subsection (3), section 99(3) applies in relation to the school and the intake area.
- (8) If the Minister amends an original non-intake area determination under subsection (4), section 99(4) continues to apply in relation to the school and the classes of school-aged children, youths and persons specified in the original non-intake area determination, as so amended.

99. Enrolment within intake area or at particular State school

- (1) Subject to subsection (2), the Secretary, at least once in every 5 years, is to –
 - (a) determine, in respect of each State school, the intake area for that school; and
 - (b) publish the intake areas in such manner as the Secretary considers appropriate.
- (2) The Secretary, instead of determining the intake area for a school under subsection (1), may recommend to the Minister –
 - (a) that a State school is not to have an intake area; and
 - (b) the classes of school-aged children, youths and persons who should be eligible to enrol at that school.

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- (3) Each of the following persons is entitled to be enrolled at a State school that has an intake area if his or her home is situated in that intake area:
 - (a) a child who is entitled to attend kindergarten;
 - (b) a school-aged child;
 - (c) a youth;
 - (d) a person who is entitled under section 94 to attend a State school.

- (4) If a State school does not have an intake area but classes of school-aged children, youths and persons have been determined under section 97 or 98 to be eligible to enrol at the school, a school-aged child, youth or person of such a class is entitled to apply for enrolment at that school.

100. Enrolment from outside intake area

- (1) A school-aged child, youth or person may be enrolled at a State school even though his or her home is not situated within the intake area for the school if –
 - (a) the school has the ability to accept more students than those whose homes are situated in the school's intake area; and
 - (b) the enrolment of the child, youth or person is in accordance with the school's out of intake area enrolment procedure.

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- (2) The Secretary, as part of the Secretary's instructions, is to issue instructions in relation to the enrolment of school-aged children, youths and persons whose homes are not in the intake area for a State school.
- (3) Without limiting the matters that may be included in them, the Secretary's instructions under subsection (2) may include –
 - (a) the manner of determining whether the State school has the ability to accept more students than those whose homes are situated in the State school's intake area; and
 - (b) the matters to be taken into account by a principal when determining the out of intake area enrolment procedure of the State school.
- (4) Before determining the out of intake area enrolment procedure, the principal is to consult with the school association for the school.

101. Enrolment in certain cases

- (1) The Secretary may accept, or refuse to accept, the enrolment of a school-aged child, youth or person at a State school if the child, youth or person has been expelled from, or asked to leave, another school (whether or not a State school) or an approved learning program or part of an approved learning program.

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- (2) The Secretary may accept enrolment subject to any conditions the Secretary considers appropriate.
- (3) If the Secretary under subsection (1) refuses to accept the enrolment of a school-aged child, youth or person at a State school, the Secretary is to make arrangements to ensure that the school-aged child, youth or person receives appropriate education by alternative means.

102. Support school

The Secretary may determine –

- (a) whether or not a child or person is a member of a class entitled to be enrolled at a State school that is a support school; and
- (b) the manner in which the child or person may be enrolled; and
- (c) any other matter relating to the enrolment.

103. Dress code

- (1) The principal of a school may develop a dress code for the students at the school.
- (2) A principal is to develop a dress code in accordance with the Secretary's instructions.

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- (3) In developing a dress code, the principal is to consult with the school association for the school.
- (4) In developing the dress code, a principal is to take into account the matters specified in the Secretary's instructions.
- (5) The principal of a State school is to ensure that students comply with the dress code.
- (6) If a principal considers that a student's failure to comply with the dress code occurs too frequently and without reasonable excuse, that failure is taken to be unacceptable behaviour under a behaviour management policy developed under section 129 by the principal.

104. Distance education

- (1) The following persons may apply to the Secretary for the provision of distance education, being education up to and including the last year of secondary education:
 - (a) a parent of a school-aged child or youth on behalf of that child or youth;
 - (b) a school-aged child who is living independently from his or her parents;
 - (c) a youth;
 - (d) any other person who, under this Act is entitled, or may be allowed in the circumstances specified in this Act, to attend a State school.

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- (2) An application is to be made in a form approved by the Secretary.
- (3) The Secretary may –
 - (a) grant an application with or without conditions; or
 - (b) refuse to grant an application.
- (4) In determining whether to grant or refuse to grant an application, the Secretary may take into account any of the following matters:
 - (a) whether the school-aged child, youth or person lives in an isolated area which is too distant from a school to allow attendance on a daily basis;
 - (b) whether the child, youth or person is required to be in a hospital;
 - (c) whether the child, youth or person is housebound because of a physical impairment or infectious disease;
 - (d) whether the child, youth or person is pregnant;
 - (e) whether the child, youth or person is otherwise unable to attend school on a regular basis;
 - (f) any other matter the Secretary considers relevant.

- (5) The Secretary, at any time, may determine that distance education is not to be provided to a particular child, youth or person.

105. Administrative and financial matters

The Minister may determine the following matters in relation to the administration and organisation of a State school:

- (a) the minimum and maximum size of a class or type of class;
- (b) the days on which the school is to be open for educational instruction;
- (c) the minimum number of hours that educational instruction is to be provided to a full-time student at the school;
- (d) the days on which the school is to be open for attendance by teachers;
- (e) the hours during which the school is to be open for educational instruction and other activities;
- (f) the number of teachers and other persons to be appointed or employed at the school;
- (g) the allocation of financial and other resources to the school;
- (h) the reporting of administrative and financial activities;

- (i) the manner in which an audit of the school is to be carried out;
- (j) the manner in which the performance of teachers and other persons appointed or employed at the school is to be evaluated.

Division 2 – Principals

106. Qualifications of principal

A person may not be appointed as principal of a State school unless he or she –

- (a) is a registered teacher, within the meaning of the *Teachers Registration Act 2000*, who has full registration under that Act; and
- (b) has any other qualification prescribed by the regulations.

107. Functions of principal

- (1) The principal of a State school has the following functions:
 - (a) to ensure that the curriculum, teaching practice, homework assignment, assessment and reporting procedures at the school are consistent with the Secretary's instructions;
 - (b) to ensure, as far as reasonably practicable, the safety and welfare of

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- students and staff while on the premises of the school or attending school activities elsewhere;
- (c) to provide educational leadership to teachers, staff and students at the school;
 - (d) to carry out the day-to-day management of the school, students and staff;
 - (e) to prepare the plans, budgets and reports for the school as required by the Secretary, in writing, or the Secretary's instructions;
 - (f) to implement policies in accordance with the set of beliefs, values and priorities formulated and developed by the school association;
 - (g) any other function imposed by this Act;
 - (h) any other function prescribed by the regulations.
- (2) The principal of a State school must allow any person acting under the authority of the Minister or Secretary to enter the school premises for any purpose authorised by the Minister or Secretary.
- (3) For the purposes of subsection (2), the Minister or Secretary may authorise –
- (a) a class of persons by including it in the Ministerial instructions or the Secretary's instructions; or

- (b) an individual person in writing provided to the person.

108. Powers of principal generally

The principal of a State school may do anything necessary or convenient to perform his or her functions, except as otherwise provided by the Secretary’s instructions or this Act.

Division 3 – School associations

109. School association

- (1) A State school is to have a school association.
- (2) A school association may be the school association for more than one school if the Minister so approves.
- (3) The name of a school association is to be –
 - (a) the name of the school or schools of which it is the school association followed by the words “School Association” or “College Association”; or
 - (b) if the Minister, in writing, approves another name, that other name.
- (4) A school association –
 - (a) is a body corporate with perpetual succession; and
 - (b) may have a seal; and

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- (c) may sue and be sued in its corporate name; and
 - (d) must have a constitution approved by the Minister; and
 - (e) consists of the members as established by its constitution; and
 - (f) has the functions and powers prescribed by this Act and its constitution.
- (5) A school association is not –
- (a) an association for the purposes of the *Associations Incorporation Act 1964*; or
 - (b) the Crown or an agency or instrumentality of the Crown.
- (6) If a school association has a seal –
- (a) it may be kept and used as authorised by the school association; and
 - (b) all courts and persons acting judicially must take judicial notice of the imprint of the seal on a document and presume that it was duly sealed by the school association.

110. Establishment and dissolving of school association

- (1) The Minister, by notice in the *Gazette*, may –
- (a) establish a school association for a State school or a proposed State school, or for

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- 2 or more State schools or proposed State schools; and
- (b) dissolve the school association for a State school; and
 - (c) dissolve the school associations for 2 or more State schools and establish a single school association for those State schools; and
 - (d) if 2 or more State schools amalgamate, dissolve the school associations for those State schools and establish a school association for the amalgamated State school; and
 - (e) if a single school association has been established for 2 or more State schools, dissolve that association and establish 2 or more school associations for those State schools.
- (2) If the Minister dissolves a school association under subsection (1), the provisions of Schedule 1 have effect in relation to that school association.

111. Constitution of school association

- (1) The members of a school association may develop a proposed constitution for the school association in accordance with the regulations and submit it to the Minister for approval.

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- (2) On receipt of a proposed constitution for a school association, the Minister –
 - (a) is to approve it as the constitution of the association if satisfied that it complies with the regulations; or
 - (b) refuse to so approve it if not so satisfied.
- (3) The constitution for a school association approved under subsection (2)(a) takes effect one calendar month after its approval by the Minister or on another day determined by the Minister.
- (4) Until a constitution approved under subsection (2)(a) for a school association takes effect, the model constitution published under subsection (5) is taken to be the constitution for the association.
- (5) The Minister may publish, from time to time and in such manner as he or she considers appropriate, a model constitution for school associations.

112. Amendment of constitution of school association

- (1) The members of a school association may develop a proposed amendment of its constitution and submit it to the Minister for approval.
- (2) On receipt of a proposed amendment of the constitution for a school association, the Minister –

- (a) is to approve it if satisfied that the constitution, as so amended, would continue to comply with the regulations; or
 - (b) refuse to so approve it if not so satisfied.
- (3) An amendment of the constitution for a school association takes effect one calendar month after its approval by the Minister, or on another day determined by the Minister, and is taken to be incorporated with the constitution, as amended by the amendment.

113. Functions of school association

A school association has the following functions:

- (a) to participate in the formulation and development of school policies, both in accordance with this Act and generally;
- (b) to participate in the formulation and implementation of plans for the improvement of the school;
- (c) to participate in –
 - (i) establishing and reviewing, from time to time, the school's objectives, priorities, strategic directions and values; and
 - (ii) the planning of financial arrangements necessary to fund those objectives, priorities,

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strategic directions and values;
and

- (iii) evaluating the school's performance in achieving those objectives, priorities, strategic directions and values;
- (d) to raise funds for the benefit of the school and to determine how those funds will be used;
- (e) to participate in, and provide advice on, the selection of the person to be the principal of the school (other than a temporary principal or acting principal);
- (f) to provide advice and recommendations to the Secretary on any matter relating to policy with respect to State schools and schooling;
- (g) to foster in the school community an understanding of –
 - (i) the value of education generally;
and
 - (ii) the benefits of education;
- (h) to foster cooperation among teachers, students, parents and the school community;
- (i) other functions determined by the Minister or prescribed in the regulations.

114. Power of school association to maintain authorised deposit-taking institution account

- (1) A school association may open, maintain and operate such authorised deposit-taking institution accounts as it considers necessary for the purposes of carrying out its functions.
- (2) In opening, maintaining and operating an authorised deposit-taking institution account, a school association is to comply with any relevant Secretary's instructions.

115. Powers of school association generally

- (1) Subject to its constitution, this Act and the regulations, a school association has power to do all things necessary or convenient to be done in connection with the performance of its functions.
- (2) Without the approval of the Secretary, a school association may not –
 - (a) employ any person; or
 - (b) hold or otherwise deal with real property; or
 - (c) borrow money from, or loan money to, any person or organisation; or
 - (d) enter into contracts with a contract price or value of more than \$5 000.

116. Performance and exercise of functions and powers of school association

- (1) In performing and exercising its functions and powers, a school association –
 - (a) is to take into account Government policies and procedures –
 - (i) of which the relevant principal has given written notice to the association; or
 - (ii) which are published on the website of the Department; and
 - (b) may not do any thing which would cause a principal or member of the staff of a school to act inconsistently with those policies and procedures.
- (2) In performing and exercising its functions and powers, a school association may not –
 - (a) interfere with the day-to-day control or management of a school; or
 - (b) interfere with the provision of instruction in the school in accordance with the curriculum determined by the Secretary under section 125; or
 - (c) interfere with or intervene in, the administration of discipline at the school, except in so far as allowed under section 129; or

- (d) give directions to a teacher or any other member of the staff of a school in relation to the manner in which the teacher or member of staff performs his or her functions, other than to a member of the staff who is under the direct control of, and performing functions directly for the benefit of, the school association.

117. Power of Minister to limit functions and powers of school association

- (1) If the Minister considers that it is necessary or desirable to limit the functions or powers, or both, of a school association as a matter of urgency, the Minister, by written notice provided to the school association, may prohibit or restrict the performance or exercise of a specific function or power for the period specified in the notice or until the Minister notifies the school association, in writing, that the prohibition or restriction is removed.
- (2) A prohibition or restriction imposed under subsection (1) has effect despite any other provision of this Act or the constitution of the school association.

118. Validity of acts of school association

- (1) An act or proceeding of a school association, or a person acting under the direction of a school association, is not invalidated by reason only that at the time when the act or proceeding was done,

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taken or commenced there was a vacancy in the membership of the school association or in the position of an officeholder in the school association.

- (2) Despite the subsequent discovery –
- (a) of a defect in the appointment or election of a member of a school association or an officeholder in a school association; or
 - (b) that any person was disqualified from acting as, or incapable of being, a member of or officeholder in the school association –

all acts and proceedings of the school association, or of a person acting under the direction of a school association, are as valid as if the member or officeholder had been duly appointed or elected and was qualified to act as, or capable of being, a member or officeholder, and as if the school association or offices in the school association had been fully constituted and filled.

119. Conflict of interest by member of school association

- (1) If a member of a school association has a direct or indirect pecuniary interest in a contract entered into by the school association, or a proposed contract that the school association is considering entering into, the member –

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- (a) must disclose the conflict of interest to the school association as soon as he or she becomes aware of it; and
- (b) must not take part in any deliberation or decision of the school association that relates to that contract or proposed contract.

Penalty: Fine not exceeding 100 penalty units.

- (2) If a member of a school association discloses a direct or indirect pecuniary interest in a contract or proposed contract in accordance with subsection (1) and does not take part in any deliberation or decision of the school association that relates to the contract or proposed contract –
 - (a) the contract may not be avoided by the school association on any ground arising from the fiduciary relationship between the member and the school association; and
 - (b) the member is not liable to account for profits derived from the contract.

120. Inspection and audit of accounts of school association

- (1) The Secretary or a person authorised by the Secretary may require, in writing and at any reasonable time, a school association to make its accounts available to the Secretary or person for inspection or auditing.

- (2) A school association is to comply with a requirement made under subsection (1).

121. Annual report of school association

Once in every 12 months, a school association is to provide to the principal and the school community a report of its activities for the period of 12 months immediately preceding the provision of the report.

122. Secretary's instructions relating to school association

- (1) The Secretary's instructions may provide for matters relating to the formation, operation (including the provision of reports), administration and dissolving of school associations.
- (2) A school association must comply with the Secretary's instructions.

123. Immunity from liability of school association member

- (1) A member of a school association does not incur any personal liability in respect of any act done or omitted in good faith in the performance or exercise, or the purported performance or exercise, of any function or power of the school association.

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- (2) A civil liability that would, but for subsection (1), attach to a member of a school association attaches instead to the Crown.

124. Register of school associations

- (1) The Minister is to establish and maintain a register of school associations that includes –
- (a) a copy of the constitution of each school association; and
 - (b) such other matters as the Minister considers appropriate.
- (2) The Minister is to make the register available for inspection by members of the public at the place determined by the Minister during normal business hours.

Division 4 – Educational instruction

125. Curriculum, assessment and reporting

- (1) The curriculum in a State school is to consist of any non-sectarian and secular instruction and courses the Secretary determines.
- (2) The Secretary may issue Secretary’s instructions in respect of any matter relating to the curriculum, teaching practice, homework, assessment and reporting procedures at a State school.

126. Religious instruction

(1) In this section –

general religious education means education about the forms of religious thought, belief and expression practised in Australian society and other societies, both currently and historically, but does not include specific instruction in any one particular religion or religious denomination alone;

religious instruction means specific instruction in any particular religion that is not related to, and part of, a broader education of religious thought, belief and expression practised in Australian society and other societies.

- (2) Religious instruction, for students, may be provided at a State school only in accordance with the Secretary's instructions.
- (3) Religious instruction for students at a State school may not be provided by a teacher at that school who is a State Service officer or State Service employee employed in, or for the purposes of, the Department.
- (4) Attendance at any class for religious instruction is not compulsory for any student.
- (5) A principal may require a parent of a student at a State school to notify the principal, in writing, whether or not the student is to attend any religious instruction provided by the school.

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- (6) Nothing in this section prevents a teacher at a State school who is a State Service officer or State Service employee employed in, or for the purposes of, the Department from providing general religious education.

127. Review relating to education in State schools

The Secretary is to carry out any review that he or she considers appropriate –

- (a) to assess the quality of education in State schools; and
- (b) to evaluate the educational programs provided by State schools.

Division 5 – Discipline

128. Secretary’s instructions on unacceptable behaviour at State school

- (1) Secretary’s instructions are to be made in relation to –
- (a) the unacceptable behaviour of students and volunteers at, and visitors to, State schools; and
 - (b) the management of such behaviour; and
 - (c) the development of a behaviour management policy by each principal of a State school, including the development of processes in responding to unacceptable behaviour before

suspension of the student may be used;
and

(d) the processes that a principal is to develop as the response by the school to unacceptable behaviour.

(2) Without limiting the matters that may be included in the Secretary's instructions, those instructions may include instructions relating to the following matters:

- (a) bullying;
- (b) harassment;
- (c) behaviour likely to put a person at risk of harm;
- (d) behaviour which may cause damage to property;
- (e) disobedience;
- (f) contravening school rules and policies;
- (g) illegal behaviour;
- (h) unsociable behaviour.

129. Unacceptable behaviour at State school

(1) The principal of a State school, in accordance with the Secretary's instructions, is to develop a behaviour management policy in relation to students and volunteers at, and visitors to, the school.

- (2) In developing a behaviour management policy, the principal is to consult with the school association for the school and, if one exists, the student representative body.
- (3) The principal of a State school is to ensure that students and volunteers at, and visitors to, the school comply with the behaviour management policy.

130. Immediate suspension of State school student

If the principal of a State school is satisfied that –

- (a) a school student has behaved in an unacceptable manner, within the meaning of the Secretary’s instructions, or is so behaving; and
- (b) the behaviour posed or poses a risk to the health or safety of another school student, a teacher or another person at the school; and
- (c) that risk may be removed only by the immediate removal of the school student from the school –

the principal may suspend immediately the school student, full-time, for a period of 2 weeks or less, as the principal considers appropriate.

131. Non-urgent suspension or detention of State school student

- (1) If the principal of a State school is satisfied that –
- (a) the approved behaviour management policy of the school has been complied with in relation to the unacceptable behaviour of a school student, within the meaning of Secretary’s instructions; and
 - (b) compliance with that policy has not been effective in dealing with the unacceptable behaviour –

the principal may suspend the student, full-time or part-time, from the school for a period of 2 weeks or less, as the principal considers appropriate.

- (2) A school student at a State school may be given a detention only in accordance with the approved behaviour management policy of the school.

132. Exclusion and expulsion of State school student

- (1) In this section –

school student includes a person who has been suspended or expelled from a school under this section.

- (2) If the principal of a State school is satisfied that –

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- (a) the approved behaviour management policy of the school has been complied with in relation to the unacceptable behaviour of a school student, within the meaning of Secretary's instructions; and
- (b) compliance with that policy has not been effective in dealing with the unacceptable behaviour; and
- (c) the unacceptable behaviour of the student justifies a suspension of more than 2 weeks –

the principal may refer the matter to the Secretary.

- (3) The Secretary, if satisfied that the unacceptable behaviour of a school student justifies it, may –
 - (a) suspend the student, full-time or part-time, from attending the school for a period of 2 weeks or less; or
 - (b) exclude the student, full-time or part-time, from attending the school for a period exceeding 2 weeks; or
 - (c) expel the student from the school; or
 - (d) expel the student from the school and prohibit the student from enrolling at a specified State school or at any State school.
- (4) The Secretary may revoke any suspension, exclusion, expulsion or prohibition if satisfied

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that the school student is willing to behave in an acceptable manner.

- (5) If, under this section, the Secretary –
- (a) suspends or excludes a school student from attending a school; or
 - (b) expels a school student from a school; or
 - (c) prohibits a school student from enrolling at a specified State school or any State school; or
 - (d) revokes such a suspension, exclusion, expulsion or prohibition –

the Secretary is to notify, in writing, the parent of the student and, if the Secretary considers it appropriate, the student of the suspension, exclusion, expulsion, prohibition or revocation.

133. Educational instruction while suspended, excluded, expelled or prohibited from attending State school

- (1) In this section –

school student includes a person who has been suspended or expelled from a school under section 132.

- (2) If a school student, under this Division, is suspended from attending school, full-time or part-time, the principal is to arrange for, and ensure that the student is provided with, appropriate education during the period of suspension.

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- (3) If a school student, under this Division, is excluded, expelled or prohibited from attending school, the Secretary may determine the educational instruction of the student.

134. Review by Secretary of exclusion, expulsion or prohibition from attending State school

- (1) In this section –

original decision means a determination by the Secretary under section 132(3) to –

- (a) exclude a student from attending his or her school; or
- (b) expel a student from his or her school; or
- (c) prohibit a student from enrolling at a specified State school or at any State school;

school student includes a person who has been suspended or expelled from a school under section 132.

- (2) If a school student, under section 132(3), is –

- (a) excluded from attending his or her school; or
- (b) expelled from his or her school; or
- (c) prohibited from attending a specific State school or any State school –

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the student's parent or the student may apply, in writing, to the Secretary for a review, or for periodic reviews, of the exclusion, expulsion or prohibition.

- (3) On receipt of an application, the Secretary may –
 - (a) agree to conduct a single review or periodic reviews, regardless of whether the application was for a single review or for periodic reviews; or
 - (b) refuse to conduct a single review or periodic reviews, regardless of whether the application was for a single review or for periodic reviews.
- (4) On making a determination under subsection (3), the Secretary is to notify the applicant, in writing –
 - (a) of that determination; and
 - (b) if the determination is to conduct periodic reviews, of how often the reviews will be conducted; and
 - (c) if the determination is a refusal to conduct a review or periodic reviews, of the reasons for the determination.
- (5) On conducting a review, the Secretary may –
 - (a) confirm the original decision; or
 - (b) rescind that original decision.

- (6) On completing a review, the Secretary is to notify the applicant for the review, in writing, of his or her determination and, if the determination is to confirm the original decision, of the reasons for that determination.

135. Appeal against prohibition

- (1) A person aggrieved by any of the following determinations of the Secretary may apply to the Magistrates Court (Administrative Appeals Division) for a review of that decision and that decision is a reviewable decision for the purposes of the *Magistrates Court (Administrative Appeals Division) Act 2001*:
- (a) the expulsion of a student from his or her school and prohibition of the student from enrolling at a specified State school or at any State school under section 132(3)(d);
 - (b) the confirmation of such an expulsion and prohibition under section 134(5)(a) following a review under section 134.
- (2) If the Secretary under section 134(3)(b) refuses to conduct a single review or periodic reviews of the prohibition of a student from enrolling at a specified State school or at any State school under section 132(3)(d), the notice provided under section 134(4) to the person who applied for the review is taken to be a notice under section 132(5) for the purposes –

- (a) of making an application for review under subsection (1) of a decision referred to in subsection (1)(a); and
- (b) of the determination of the prescribed period in section 17 of the *Magistrates Court (Administrative Appeals Division) Act 2001*.

136. Removal of adult for unacceptable behaviour at State school

- (1) In this section –

adult person means a person who has attained the age of 18 years and is not a student enrolled at the school.

- (2) If the principal of a State school is of the opinion that an adult person on the school premises or present at a school activity is behaving unacceptably, within the meaning of the behaviour management policy for the school, the principal may require the person, orally or in writing, to do one or both of the following:
- (a) to leave the school premises or remove himself or herself from the school activity;
 - (b) to not re-enter the school, or remain away from the school activity, for the period specified by the principal in that requirement.

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- (3) A person must comply with a requirement made by a principal under subsection (2).

Penalty: Fine not exceeding 10 penalty units.

- (4) If a person refuses to leave school premises or a school activity when required to do so under subsection (2), or re-enters school premises or presents himself or herself at a school activity in contravention of a requirement under that subsection, the principal may take such action in the circumstances as he or she considers necessary and reasonable in the circumstances to remove the person from the school premises or school activity, including requesting the assistance of any other person.
- (5) As soon as reasonably practicable after making an oral requirement under subsection (2), the principal is to confirm that requirement in writing provided to the relevant person.
- (6) The principal of a State school may delegate his or her powers and functions under this section to a teacher or other staff member of the school on the condition that the teacher or other staff member may exercise and perform those powers and functions only if the principal is absent from the school or school activity.

Division 6 – Miscellaneous provisions

137. Transfer of State school student

- (1) The Secretary may issue Secretary's instructions in relation to the transfer of a school student from –
 - (a) one class to another class; and
 - (b) one course to another course; and
 - (c) one State school to another State school.
- (2) The Secretary's instructions may require a student to have particular qualifications or pre-requisites before transferring to another class, course or school.
- (3) The parent of a student who is transferred may request that the Secretary provide reasons in writing for that transfer.

138. Fees, levies and charges relating to attendance at State school

- (1) Subject to subsection (2), tuition fees are not payable in respect of educational instruction provided to a school student at a State school during the hours when the State school is open.
- (2) The Minister may require an overseas student to pay fees or charges to attend a State school at a rate the Minister determines.

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- (3) The Secretary's instructions may authorise the principal of a State school, in accordance with those instructions, to impose levies in respect of incidental costs and expenses incurred in respect of providing educational instruction.
- (4) The Secretary's instructions may authorise the principal of a State school to charge for activities which are in addition to the normal educational instruction at that State school.
- (5) Any fees, levies and charges received by a State school under this section are to be paid into an account and used by that State school for any purpose the Secretary approves.

139. Policy relating to imposing levies and charges relating to attendance at State school

- (1) During each year, the principal of a State school is to develop a policy in relation to imposition of levies and charges under section 138(3) and (4) in the following year.
- (2) The principal is to develop the policy in accordance with the Secretary's instructions.
- (3) In developing the policy, the principal is to consult with the school association for the school.
- (4) In developing the policy, the principal is to take into account –
 - (a) any matters specified in the Secretary's instructions; and

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- (b) any matters prescribed by the regulations; and
 - (c) any other matters the principal considers appropriate.
- (5) The principal of a State school, when imposing levies and fees under section 138(3) and (4) in respect of a year, is to comply with the policy relating to that year.

140. Hire of State school facilities and equipment

- (1) The Secretary may hire out any facilities or equipment of a State school –
 - (a) at fees approved by the Secretary; and
 - (b) on conditions specified by the Secretary .
- (2) Any fees received from the hire of the facilities of a State school are to be paid into an account and used by that State school for any purpose the Secretary approves.
- (3) The Secretary may approve the sale, loan or hire to any person of any text books, teaching aids or other materials devised, produced or otherwise acquired for use in State schools on any terms and conditions the Secretary determines.
- (4) The Secretary may exempt any person, body or organisation from the provisions of this section.

141. Educational services

- (1) The Minister may authorise the Secretary, in writing, to make available any educational services or educational products on payment of any fees and charges the Secretary determines.
- (2) Any fees and charges received are to be –
 - (a) paid into any accounts the Secretary directs; and
 - (b) applied for any educational purposes the Secretary determines.

142. Property and equipment

- (1) The Secretary may lease property and equipment to or from any person for the purposes of this Act.
- (2) The Secretary may authorise a person to occupy any property of the Department on any terms and conditions the Secretary considers appropriate.

**PART 6 – REGISTERED NON-GOVERNMENT
SCHOOLS**

Division 1 – Non-government school to be registered

143. How non-government school may be registered

A non-government school may become a registered school by –

- (a) being registered as a member of a registered system of non-government schools; or
- (b) being registered as an individual non-government school.

144. Offence for non-government school not to be registered

A person or body must not operate a non-government school, or a campus of a non-government school, unless that school is registered under this Part.

Penalty: Fine not exceeding 150 penalty units.

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Division 2 – Systems of non-government schools

Subdivision 1 – Formation of systems of non-government schools

145. Non-government schools may form system

Eight or more registered non-government schools may form a system of non-government schools for the purposes of this Act.

146. Approved authority for system of non-government schools

- (1) The approved authority for a system of non-government schools is the person or organisation that is appointed, for the time being, by the governing bodies of the registered non-government schools in the system to act on their behalf in relation to the system or proposed system, with full authority to incur costs and direct the schools in the system.
- (2) In appointing an approved authority for a system of non-government schools, the governing bodies of the registered non-government schools agree that the approved authority has power to –
 - (a) incur costs in relation to those schools; and
 - (b) give directions to those governing bodies and the principals of those schools for the purposes of compliance with this Act.

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- (3) If a registered school becomes a member of a system of non-government schools after the system is registered, the governing body of the school is taken to have agreed to the approved authority having the powers specified in section 146(2)(a) and (b) in relation to the governing body, school and principal of the school.

Subdivision 2 – Registration of systems of non-government schools

147. Application for registration of system of non-government schools

- (1) The approved authority for a system of non-government schools may apply to the Registration Board for registration of the system.
- (2) An application is to –
- (a) be in writing; and
 - (b) be lodged with the Registrar; and
 - (c) specify the registered schools included in the system of non-government schools; and
 - (d) include evidence that, at the time of making the application, each of those registered schools is a registered school and has been registered for a period of not less than 12 months; and

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- (e) specify the type of education, as specified in section 174, provided by each of those schools; and
 - (f) include evidence that the applicant is the approved authority for the system of non-government schools; and
 - (g) show how the system of non-government schools meets the standards prescribed by the regulations in relation to registration of a system of non-government schools under this Act; and
 - (h) include a description of the manner in which it is proposed to monitor compliance with the requirements for registration of the schools in the system of non-government schools; and
 - (i) be accompanied by any fee determined by the Registration Board and approved by the Minister.
- (3) On receiving the application, the Registrar is to provide a copy of it to the Registration Board.
- (4) The Registration Board may require an approved authority for a system of non-government schools to provide any further information it considers necessary in order to determine the application.

148. Report of Registrar

- (1) Before determining an application for registration of a system of non-government schools, the Registration Board is to obtain a report from the Registrar in relation to the application.
- (2) The report is to include –
 - (a) an assessment of the system of non-government schools against the standards for the registration of such systems prescribed by the regulations; and
 - (b) any other information the Registrar considers relevant; and
 - (c) recommendations relating to whether the application be granted and whether any grant of the application be subject to conditions.
- (3) The Registrar may require the approved authority for the system of non-government schools to provide any information he or she considers necessary in order to make the report.

149. Opinion of Minister

- (1) Before determining an application for registration of a system of non-government schools, the Registration Board is to provide a copy of the report obtained from the Registrar under section 148 to the Minister together with a

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request for the opinion of the Minister in relation to the application.

- (2) The Registration Board is to take the opinion of the Minister into account when determining the application for registration of the system of non-government schools but is not bound by that opinion.

150. Determining application for registration of system of non-government schools

- (1) As soon as reasonably practicable after receiving an application for the registration of a system of non-government schools and the report of the Registrar made under section 148, the Registration Board is to –
- (a) grant the application, with or without conditions; or
 - (b) refuse to grant the application.
- (2) The Registration Board must not grant the application without conditions unless satisfied that the system of non-government schools meets the standards for registration of a system of non-government schools prescribed by the regulations.
- (3) The Registration Board may grant the application subject to conditions if satisfied that –
- (a) although the system of non-government schools does not meet the standards for

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registration of a system of non-government schools prescribed by the regulations, the deficiency –

- (i) does not pose a risk of harm to the health and safety of the students and staff at, or visitors to, the schools which are to become registered system schools as members of that system; and
 - (ii) is capable of being rectified within the period determined by the Registration Board; and
- (b) the imposition of the conditions is sufficient to rectify the failure to meet those standards.
- (4) If the Registration Board grants the application, it is to cause the system of non-government schools to be registered.
- (5) The Registration Board is to notify the approved authority for the system of non-government schools, in writing, of its determination under this section and, if the application is refused or conditions are imposed on the registration under section 151, of the reasons for that determination.

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151. Registration of system of non-government schools subject to conditions

- (1) The registration of a system of non-government schools is subject to the conditions determined by the Registration Board.
- (2) The registration of a system of non-government schools is subject, also, to a condition that the approved authority must notify the Registration Board, in writing, if any school which is a member of the system is to have no enrolments for a period of time.
- (3) The Registration Board, at any time, may –
 - (a) impose conditions or further conditions on the registration of a system of non-government schools; or
 - (b) vary the conditions to which the registration of a system of non-government schools is subject; or
 - (c) remove any, or all, of the conditions to which the registration of a system of non-government schools is subject.

152. Term of registration

A registered system of non-government schools is registered until the registration is cancelled.

153. Certificate of registration of system of non-government schools

- (1) On the registration of a system of non-government schools, the Registrar is to issue a certificate of registration to the approved authority for the system.
- (2) The certificate of registration is to set out –
 - (a) the name and address of the approved authority; and
 - (b) the name and address of each school that is a member of the system of non-government schools; and
 - (c) any conditions to which the registration is subject; and
 - (d) any other matter the Registration Board or Registrar considers appropriate.
- (3) If after the registration of a system of non-government schools a school becomes registered as a member of the system or the Registration Board imposes, varies or removes a condition to which the registration is subject, the Registrar is to issue to the approved authority a replacement certificate of registration that shows the details of that school or the conditions to which the registration is now subject.
- (4) The Registrar may issue a replacement certificate of registration –

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- (a) if satisfied that the certificate of registration has been lost, destroyed or badly defaced; and
- (b) on payment of any fee determined by the Registration Board and approved by the Minister.

154. Suspension of registration of system of non-government schools

- (1) The Registration Board may suspend the registration of a system of non-government schools for a period not exceeding 6 months –
 - (a) if satisfied that –
 - (i) any registered system school which is a member of the system no longer meets the standards for registration of a non-government school; or
 - (ii) the approved authority, or a registered system school which is a member of the system, is not complying with any condition to which the registration of the system or the school's registration is subject; or
 - (iii) the approved authority is not adequately performing its functions; or

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- (iv) the approved authority, or the governing body of a registered system school which is a member of the system, has failed to comply with a requirement made under section 194; or
 - (v) it is in the best interests of the students at any one or more of the schools which are members of the system of non-government schools to do so; or
 - (b) following the cancellation of the registration of a registered system school which is a member of the system if 7 or more registered system schools remain as members of the system; or
 - (c) for any reason prescribed by the regulations.
- (2) In determining whether or not to suspend the registration of a system of non-government schools, the Registration Board –
 - (a) is to consider any reports provided by the Registrar under Division 6 in relation to the system or any school which is a member of the system; and
 - (b) may take into account any information it considers relevant including, but not limited to, the suspension or cancellation of the registration of any registered school which is a member of the system; and

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- (c) is to allow the approved authority a reasonable opportunity to make written submissions in relation to the matter; and
 - (d) if the suspension or cancellation of the registration of a registered system school, or the operation or conditions of a registered system school, is relevant to the determination, is to allow the governing body of the school a reasonable opportunity to make written submissions in relation to the matter; and
 - (e) must consider any submissions made under paragraph (c) or (d).
- (3) On suspending the registration of a system of non-government schools, the Registration Board, in writing, is to notify –
- (a) the approved authority for the system, and each of the governing bodies of the registered schools which are members of the system of –
 - (i) the suspension; and
 - (ii) the period for which the registration is suspended; and
 - (iii) the reasons for the suspension; and
 - (b) the Secretary of the department of the Commonwealth government having responsibilities in relation to education

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and training of the suspension and the date on which it takes effect.

- (4) The suspension of the registration of a system of non-government schools takes effect on the day specified in notice provided to the approved authority and governing bodies under subsection (3).
- (5) If the registration of a system of non-government schools is suspended, the schools which were members of the system immediately before the suspension –
 - (a) continue to be registered non-government schools during the period of suspension; and
 - (b) are to be treated during that period as if they were registered, under Division 3, as individual non-government schools.

155. Cancellation of registration of system of non-government schools

- (1) The Registration Board is to cancel the registration of a system of non-government schools if, following the cancellation of the registration of a registered system school, the system has fewer than 7 registered system schools as its members.
- (2) The Registration Board may cancel the registration of a system of non-government schools –

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- (a) if satisfied that –
- (i) the approved authority, the system or a registered system school which is a member of the system is not complying with any condition to which the registration of the system, or the registration of the registered system school, is subject; or
 - (ii) the approved authority is not adequately performing its functions; or
 - (iii) the approved authority, or the governing body of a registered system school which is a member of the system, has failed to comply with a requirement made under section 194; or
 - (iv) the system does not meet, or no longer meets, the standards for registration of a system of non-government schools prescribed by the regulations; or
 - (v) it is in the best interests of the students at any one or more of the registered schools which are members of the system of non-government schools to do so; or
- (b) if, following the cancellation of the registration of a school which is a member of the system, 7 registered

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- schools remain as members of the system; or
- (c) for any reason prescribed by the regulations.
- (3) In determining whether or not to cancel the registration of a system of non-government schools, the Registration Board –
- (a) is to consider any reports provided by the Registrar under Division 6 in relation to the system or any school which is a member of the system; and
 - (b) may take into account any information it considers relevant including, but not limited to, the suspension or cancellation of the registration of any registered school which is a member of the system; and
 - (c) is to allow the approved authority a reasonable opportunity to make written submissions in relation to the matter; and
 - (d) if the suspension or cancellation of the registration of a registered system school, or the operation or conditions of a registered system school, is relevant to the determination, is to allow the governing body of the school a reasonable opportunity to make written submissions in relation to the matter; and
 - (e) must consider any submissions made under paragraph (c) or (d).

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- (4) On cancelling the registration of a system of non-government schools, the Registration Board, in writing, is to notify –
- (a) the approved authority for the system, and each of the governing bodies of the registered schools which are members of the system of –
 - (i) the cancellation; and
 - (ii) the date the cancellation takes effect; and
 - (iii) the reasons for the cancellation; and
 - (b) the Minister of the cancellation and the date on which it takes effect; and
 - (c) the Secretary of the department of the Commonwealth government having responsibilities in relation to education and training of the cancellation and the date on which it takes effect.
- (5) The cancellation of the registration of a system of non-government schools takes effect on the day specified in the notice provided to its approved authority and the governing bodies under subsection (4).
- (6) If the registration of a system of non-government schools is cancelled, the schools which were members of the system immediately before the cancellation –

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- (a) continue to be registered non-government schools for the period of 12 months commencing on the day of the cancellation; and
 - (b) except as otherwise provided by this Act, are to be treated during that period as if they were registered under Division 3 as individual non-government schools.
- (7) Nothing in this section prevents –
- (a) a non-government school, which was a member of a system of non-government schools the registration of which has been cancelled under this section, from applying, under section 168 as a transitioning non-government school, for registration as an individual non-government school and being granted that registration under section 170; or
 - (b) the registration of such a school from being suspended or cancelled under section 178 or 179 –
- during the 12-month period referred to in subsection (6).
- (8) An application under subsection (7)(a) for registration as an individual non-government school must be made not later than 6 months before the end of the 12-month period referred to in subsection (6).

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156. Withdrawal from registration of system of non-government schools

- (1) The approved authority for a registered system of non-government schools may notify the Registration Board, in writing, that the system no longer wishes to be registered.
- (2) As soon as reasonably practicable after receiving a notice under subsection (1), the Registration Board is to cancel the registration of the system.
- (3) On cancelling the registration of a system of non-government schools, the Registration Board is to notify the approved authority for the system, in writing, and each of the governing bodies of the schools which are members of the system, in writing, of –
 - (a) the cancellation; and
 - (b) the date the cancellation takes effect; and
 - (c) the reasons for the cancellation.
- (4) If the registration of a system of non-government schools is cancelled, the schools which were members of the system immediately before the cancellation –
 - (a) continue to be registered non-government schools for the period of 12 months commencing on the day of the cancellation; and
 - (b) except as otherwise provided by this Act, are to be treated during that period as if

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they were registered under Division 3 as individual non-government schools.

(5) Nothing in this section prevents –

- (a) a non-government school, which was a member of a system of non-government schools the registration of which has been cancelled under this section, from applying, under section 168 as a transitioning non-government school, for registration as an individual non-government school and being granted that registration under section 170; or
- (b) the registration of such a school from being suspended or cancelled under section 178 or 179 –

during the 12-month period referred to in subsection (4).

(6) An application under subsection (5)(a) for registration as an individual non-government school must be made not later than 6 months before the end of the 12-month period referred to in subsection (4).

157. Effect of suspension or cancellation of registration of registered system school on registered system of non-government schools

(1) The suspension of the registration of a registered system school –

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- (a) affects the registration of the system of non-government schools only to the extent that it may be taken into account by the Registration Board when considering the suspension or cancellation of the registration of that system; but
 - (b) does not otherwise affect the registration of the system of non-government schools.
- (2) The cancellation of the registration of a registered system school –
- (a) if following the cancellation of the registration of the school the system of non-government schools continues to have at least 8 registered system schools as its members, does not otherwise affect the registration of the system of non-government schools; or
 - (b) if following the cancellation of the registration of the school the system of non-government schools continues to have 7 registered system schools as its members –
 - (i) affects the registration of the system of non-government schools only to the extent that it may result in the suspension or cancellation of the registration of the system of non-government schools by the Registration Board

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in accordance with section 154 or
155; but

- (ii) does not otherwise affect the registration of the system of non-government schools; or
- (c) if following the cancellation of the registration of the school the system of non-government schools has fewer than 7 registered system schools as its members, the cancellation results in the cancellation of the registration of the system of non-government schools in accordance with section 155.

Subdivision 3 – Registered system schools

158. Qualification to become member of system of non-government schools

- (1) This section applies to a non-government school that is not a member of a system of non-government schools at the time the system is registered under section 150.
- (2) A non-government school may become a member of a registered system of non-government schools only if –
 - (a) the school has been registered under Division 3 as an individual non-government school for a period of not less than 12 months; and

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- (b) the approved authority for the system, whether before or after the end of that 12-month period –
 - (i) notifies the Registration Board, in writing, that the governing body of the school wishes the school to become a member of the system; and
 - (ii) provides evidence to the Registration Board that the governing body so wishes.

159. When registration of individual non-government school changes to registration as registered system school

(1) In this section –

founding member school means a non-government school that, at the time a system of non-government schools is granted registration under section 150 –

- (a) is registered under Division 3 as an individual non-government school and has been so registered for a period of not less than 12 months; and
- (b) is a member of that system of non-government schools;

new member school means a non-government school –

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- (a) that is registered under Division 3 as an individual non-government school and has been so registered for a period of not less than 12 months; and
 - (b) at the time a system of non-government schools is granted registration under section 150, was not a founding member of that system; and
 - (c) in respect of which a notice relating to the school becoming a member of that system, and evidence, has been provided to the Registration Board in accordance with section 158(2)(b).
- (2) A founding member school becomes registered as a member of the registered system of non-government schools of which it is a member on the day on which the system is registered under section 150.
- (3) A new member school becomes registered as a member of the relevant registered system of non-government schools when the Registration Board issues, under section 153(3), a replacement certificate of registration to the approved authority for the system that shows the details of that school.
- (4) When a founding member school or new member school becomes registered, under

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subsection (2) or (3), as a member of a system of non-government schools, the registration of the school under Division 3 as an individual non-government school is cancelled.

160. Registration as registered system school subject to conditions

- (1) The registration of a registered system school is subject to the conditions determined by the Registration Board.
- (2) The registration of a registered system school is subject, also, to the condition that the approved authority must notify the Registration Board, in writing, if the school is to have no enrolments for a period of time.
- (3) The Registration Board, at any time, may –
 - (a) impose conditions or further conditions on the registration of a registered system school; or
 - (b) vary the conditions to which the registration of a registered system school is subject; or
 - (c) remove any, or all, of the conditions to which the registration of a registered system school is subject.

161. Suspension of registered system school

- (1) The Registration Board may suspend the registration of a registered system school for a period not exceeding 12 months –
- (a) if satisfied that –
 - (i) the school no longer meets the standards for registration of a non-government school; or
 - (ii) the school, the approved authority or the school’s governing body is not complying with any condition relating to the school to which the registration of the registered system of non-government schools is subject; or
 - (iii) the approved authority or the school’s governing body has failed to comply with a direction given to it under section 194; or
 - (iv) it is in the best interests of the students at that school to do so; or
 - (b) if the approved authority or school’s governing body notifies the Registration Board, in writing, that the school will have no enrolments for a specified period of time; or
 - (c) for any reason prescribed by the regulations.

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- (2) In determining whether or not to suspend the registration of a registered system school, the Registration Board –
- (a) is to consider any reports provided by the Registrar under Division 6 in relation to the school; and
 - (b) may take into account any information it considers relevant; and
 - (c) is to allow the approved authority and the school’s governing body a reasonable opportunity to make written submissions in relation to the matter; and
 - (d) must consider any such submissions.
- (3) On suspending the registration of a registered system school, the Registration Board, in writing, is to notify –
- (a) the approved authority and the governing body of the school of –
 - (i) the suspension; and
 - (ii) the date on which the suspension takes effect; and
 - (iii) the reasons for the suspension; and
 - (b) the Minister of the suspension and the date on which it takes effect; and
 - (c) the Secretary of the department of the Commonwealth government having

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responsibilities in relation to education and training of the suspension and the date on which it takes effect.

- (4) The suspension of the registration of a registered system school takes effect on the day specified in the notice provided to the approved authority and the school's governing body under subsection (3).

162. Cancellation of registration of registered system school

- (1) The Registration Board may cancel the registration of a registered system school –
- (a) if satisfied that –
- (i) the school no longer meets the standards for registration of a non-government school; or
 - (ii) the school, the approved authority or the school's governing body is not complying with any condition relating to the school to which the registration of the registered system of non-government schools is subject; or
 - (iii) the approved authority or the school's governing body has failed to comply with a direction given to it under section 194; or

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- (iv) it is in the best interests of the students at that school to do so; or
 - (b) if the approved authority or school's governing body notifies the Registration Board, in writing, that the school will have no enrolments for a specified period of time; or
 - (c) for any reason prescribed by the regulations.
- (2) In determining whether or not to cancel the registration of a registered system school, the Registration Board –
- (a) is to consider any reports provided by the Registrar under Division 6 in relation to the school; and
 - (b) may take into account any information it considers relevant; and
 - (c) is to allow the approved authority and the school's governing body a reasonable opportunity to make written submissions in relation to the matter; and
 - (d) must consider any such submissions.
- (3) On cancelling the registration of a registered system school, the Registration Board, in writing, is to notify –
- (a) the approved authority and the school's governing body of –
 - (i) the cancellation; and

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- (ii) the date on which the cancellation takes effect; and
 - (iii) the reasons for the cancellation; and
 - (b) the Minister of the cancellation and the date on which it takes effect; and
 - (c) the Secretary of the department of the Commonwealth government having responsibilities in relation to education and training of the cancellation and the date on which it takes effect.
- (4) The cancellation of the registration of a registered system school takes effect on the day specified in the notice provided to the approved authority and the school's governing body under subsection (3).

163. Withdrawal of school from registered system of non-government schools

- (1) The approved authority for a registered system of non-government schools may notify the governing body of a school that the school is to be excluded from the system.
- (2) The governing body of a school that is a member of a registered system of non-government schools may notify the approved authority for the system that it is withdrawing from the system.
- (3) A notice under subsection (1) or (2) is to –

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- (a) be in writing; and
 - (b) specify the day, being a day not earlier than the end of the period of 90 days commencing on the day on which the notice is provided to the governing body or approved authority under that subsection, on which the exclusion or withdrawal is to take effect.
- (4) As soon as reasonably practicable after providing a notice of exclusion under subsection (1) or receiving a notice of withdrawal of a school under subsection (2), the approved authority must –
- (a) notify the Registration Board, in writing, of the exclusion or withdrawal and the day on which the exclusion or withdrawal takes effect; and
 - (b) provide to the Registration Board a copy of the notice of exclusion or withdrawal provided under subsection (1) or (2).

Penalty: Fine not exceeding 100 penalty units.

- (5) As soon as reasonably practicable, but not later than 60 days, after providing a notice of withdrawal under subsection (2) or receiving a notice of exclusion under subsection (1), the governing body of the non-government school is to apply, under section 168, for registration of the school as an individual non-government school if the school is to continue operating.

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- (6) The school ceases to be a member of the registered system of non-government schools, and its registration as such a member ceases –
- (a) on the day specified in the notice provided under subsection (1) or (2) as the day on which the exclusion or withdrawal takes effect; or
 - (b) if before that day the school is registered under section 170 as an individual non-government school, on the day of that registration.
- (7) If the governing body of the school applies, under section 168, for registration of the school as an individual non-government school in accordance with subsection (5), but that application has not been determined by the day specified in the notice provided under subsection (1) or (2) as the day on which the exclusion or withdrawal takes effect, the school, from that day until the day the application is determined (inclusive) –
- (a) continues to be a registered non-government school; and
 - (b) except as otherwise provided by this Act, is to be treated as if it were registered under Division 3 as an individual non-government school.

Division 3 – Registration of individual non-government schools

Subdivision 1 – Registration of new individual non-government schools

164. Application for registration of new individual non-government school

- (1) A person or organisation intending to own, manage or operate a new individual non-government school may apply to the Minister for registration of the school as an individual non-government school.
- (2) An application is to –
 - (a) be in writing; and
 - (b) state the type of education, as specified in section 174, to be provided; and
 - (c) provide details of how the school meets, or will meet, standards for registration of new individual non-government schools prescribed by the regulations; and
 - (d) include any other information required by the regulations to be included; and
 - (e) be lodged with the Registrar no later than 9 months before the new individual non-government school is due to commence operating; and

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- (f) be accompanied by any fee determined by the Registration Board and approved by the Minister.
- (3) On receiving the application, the Registrar is to provide a copy of it to the Registration Board.
- (4) The Registration Board may require a person or organisation to provide any further information it considers may be necessary in order for the Minister to determine the application.
- (5) As soon as reasonably practicable after receiving the application, the Registration Board is to provide a copy of it to the Minister.

165. Report of Registrar for registration of new individual non-government school

- (1) Before providing an application for registration of a new individual non-government school to the Minister, the Registration Board is to obtain a report from the Registrar in relation to the application.
- (2) The report is to include –
 - (a) an assessment of the school against the standards for registration of new individual non-government schools prescribed by the regulations and the matters prescribed by the regulations for the purposes of section 167(5); and
 - (b) any other information the Registrar considers relevant; and

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- (c) recommendations relating to whether the application be granted and whether any grant of the application be subject to conditions.
- (3) The Registrar may require the applicant for the registration of a new individual non-government school to provide any information he or she considers necessary in order to make the report.
- (4) On completing the report, the Registrar is to provide it to the Registration Board.

166. Providing application for registration of new individual non-government school to Minister

On receipt under section 165(4) of the report of the Registrar in relation to an application for the registration of a new individual non-government school, the Registration Board is to provide the following documents to the Minister:

- (a) the application;
- (b) the report;
- (c) the recommendations of the Registration Board in respect of the application.

167. Determining application for registration of new individual non-government school

- (1) As soon as reasonably practicable after receiving under section 166 an application for the registration of a new individual non-government school, the report of the Registrar in relation to

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the application and the recommendation of the Registration Board, the Minister is to –

- (a) grant the application, with or without conditions; or
 - (b) refuse to grant the application.
- (2) The Minister must not grant the application without conditions unless satisfied that the new individual non-government school meets the standards for registration of new individual non-government schools prescribed by the regulations.
- (3) The Minister may grant the application subject to conditions if satisfied that –
- (a) although the new individual non-government school does not meet the standards for registration of new individual non-government schools prescribed by the regulations, the deficiency –
 - (i) does not pose a risk of harm to the health and safety of the students and staff at, or visitors to, the school; and
 - (ii) is capable of being rectified within the period determined by the Registration Board; and
 - (b) the imposition of the conditions is sufficient to rectify the failure to meet those standards.

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- (4) If the Minister grants the application, he or she is to cause the new individual non-government school to be registered as an individual non-government school.
- (5) In determining an application for registration of a new individual non-government school, the Minister must take into account the report of the Registrar provided under section 166, the recommendations of the Registration Board and the matters prescribed by the regulations.
- (6) For the purposes of determining the application, the Minister may require the applicant, the Registration Board or the Registrar to provide any further information the Minister considers necessary or relevant.
- (7) The Minister is to notify the applicant, in writing, of the determination under this section and, if the application is refused or granted subject to conditions, of the reasons for that determination.

Subdivision 2 – Registration of transitioning non-government schools

168. Application for registration of transitioning non-government school

- (1) A governing body of a transitioning non-government school may apply to the Registration Board for registration of the school as an individual non-government school.
- (2) An application is to –

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- (a) be in writing; and
 - (b) state the type of education, as specified in section 174, to be provided; and
 - (c) provide details of how the school meets standards for the renewal of registration of registered individual schools prescribed by the regulations; and
 - (d) include any other information required by the regulations to be included; and
 - (e) be lodged with the Registrar; and
 - (f) be accompanied by any fee determined by the Registration Board and approved by the Minister.
- (3) On receiving the application, the Registrar is to provide a copy of it to the Registration Board.
- (4) The Registration Board may require the governing body to provide any further information the Registration Board considers necessary or relevant.

169. Report of Registrar for registration of transitioning non-government school

- (1) Before determining an application for registration of a transitioning non-government school, the Registration Board is to obtain a report from the Registrar in relation to the application.
- (2) The report is to include –

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- (a) an assessment of the school against the standards for renewal of registration of registered individual schools prescribed by the regulations and the matters prescribed by the regulations for the purposes of section 173(5); and
 - (b) any other information the Registrar considers relevant; and
 - (c) recommendations relating to whether the application be granted and whether any grant of the application be subject to conditions.
- (3) The Registrar may require the applicant for the registration of a transitioning non-government school to provide any information he or she considers necessary in order to make the report.

170. Determining application for registration of transitioning non-government school

- (1) As soon as reasonably practicable after receiving the report of the Registrar under section 169 in relation to an application for the registration of a transitioning non-government school, the Registration Board is to –
 - (a) grant the application, with or without conditions; or
 - (b) refuse to grant the application.
- (2) The Registration Board must not grant the application without conditions unless satisfied

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that the transitioning non-government school meets the standards for the renewal of registration of registered individual schools prescribed by the regulations.

- (3) The Registration Board may grant the application subject to conditions if satisfied that –
- (a) although the transitioning non-government school does not meet the standards for the renewal of registration of registered individual schools prescribed by the regulations, the deficiency –
 - (i) does not pose a risk of harm to the health and safety of the students and staff at, or visitors to, the school; and
 - (ii) is capable of being rectified within the period determined by the Registration Board; and
 - (b) the imposition of the conditions is sufficient to rectify the failure to meet those standards.
- (4) If the Registration Board grants the application, it is to cause the transitioning non-government school to be registered as an individual non-government school.
- (5) In determining an application for registration of a transitioning non-government school, the Registration Board must take into account the

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report of the Registrar provided under section 169 and the matters prescribed by the regulations.

- (6) For the purposes of determining the application, the Registration Board may require the applicant or the Registrar to provide any further information the Registration Board considers necessary or relevant.
- (7) The Registration Board is to notify the applicant, in writing, of the determination under this section and, if the application is refused or granted subject to conditions, of the reasons for that determination.

Subdivision 3 – Renewal of registration of registered individual school

171. Application for renewal of registration of registered individual school

- (1) The governing body of a registered individual school may apply to the Registration Board for renewal of that registration.
- (2) An application is to –
 - (a) be in writing; and
 - (b) state the type of education, as specified in section 174, to be provided; and
 - (c) provide details of how the school meets standards for renewal of registration of registered individual schools prescribed by the regulations; and

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- (d) include any other information required by the regulations to be included; and
 - (e) be lodged with the Registrar no earlier than 12 months, and no later than 9 months, before the school's registration as an individual non-government school is due to expire; and
 - (f) be accompanied by any fee determined by the Registration Board and approved by the Minister.
- (3) On receiving the application, the Registrar is to provide a copy of it to the Registration Board.
- (4) The Registration Board may require the governing body to provide any further information the Registration Board considers necessary or relevant.

172. Report of Registrar for renewal of registration of registered individual school

- (1) Before determining an application for the renewal of registration of a registered individual school, the Registration Board is to obtain a report from the Registrar in relation to the application.
- (2) The report is to include –
- (a) an assessment of the school against the standards for renewal of registration of registered individual schools prescribed by the regulations and the matters

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prescribed by the regulation for the purposes of section 173(5); and

- (b) any other information the Registrar considers relevant; and
 - (c) recommendations relating to whether the application be granted and whether any grant of the application be subject to conditions.
- (3) The Registrar may require the applicant for the renewal of registration of a registered individual school to provide any information he or she considers necessary in order to make the report and recommendations.

173. Determining application for renewal of registration of registered individual school

- (1) As soon as reasonably practicable after receiving the report of the Registrar under section 172 in relation to an application for the renewal of the registration of a registered individual school, the Registration Board is to –
 - (a) grant the application, with or without conditions; or
 - (b) refuse to grant the application.
- (2) The Registration Board must not grant the application without conditions unless satisfied that the registered individual school meets the standards for the renewal of registration of

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registered individual schools prescribed by the regulations.

- (3) The Registration Board may grant the application subject to conditions if satisfied that –
- (a) although the registered individual school does not meet the standards for the renewal of registration of registered individual schools prescribed by the regulations, the deficiency –
 - (i) does not pose a risk of harm to the health and safety of the students and staff at, or visitors to, the school; and
 - (ii) is capable of being rectified within the period determined by the Registration Board; and
 - (b) the imposition of the conditions is sufficient to rectify the failure to meet those standards.
- (4) If the Registration Board grants the application, it is to cause the registration of the registered individual non-government school to be renewed accordingly.
- (5) In determining an application for the renewal of registration of a registered individual school, the Registration Board must take into account the report of the Registrar provided under section 172 and the matters prescribed by the regulations.

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- (6) For the purposes of determining the application, the Registration Board may require the applicant or the Registrar to provide any further information the Registration Board considers necessary or relevant.
- (7) If the Registration Board grants the application, it is to renew the school's registration as an individual non-government school and cause the register maintained under section 214 to be updated accordingly.
- (8) The Registration Board is to notify the applicant, in writing, of the determination under this section and, if the application is refused or granted subject to conditions, of the reasons for that determination.

Subdivision 4 – General provisions relating to registration of non-government schools

174. Type of registration

If the Registration Board grants an application for registration as a school, it is to register that school as a school of a type providing one or more of the following:

- (a) kindergarten;
- (b) primary education for any specified ages;
- (c) secondary education for any specified ages;
- (d) senior secondary education;

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- (e) special assistance education;
- (f) distance education;
- (g) education of a specified kind;
- (h) education for children of a specified kind;
- (i) boarding house or residence for students;
- (j) education mainly provided to students by a form of electronic communication, within the meaning of the *Electronic Transactions Act 2000*.

175. Registration as individual non-government school subject to conditions

- (1) If the Minister under section 167 grants an application for the registration of a new individual non-government school, or the Registration Board under section 170 grants an application for the registration of a transitioning non-government school, the registration is subject to the conditions determined by the Minister, or the Registration Board, at the time of granting the application, as amended from time to time under subsection (3).
- (2) The registration of a registered individual school is subject, also, to the condition that the governing body of the school must notify the Registration Board, in writing, if the school is to have no enrolments for a period of time.

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- (3) The Registration Board, at any time, may amend the conditions to which the registration of an individual non-government school is subject by –
- (a) imposing conditions or further conditions; or
 - (b) varying the conditions; or
 - (c) removing any, or all, of the conditions.
- (4) The Registration Board may impose, vary or remove a condition under subsection (3) in relation to a school which was registered as an individual non-government school on the grant by the Minister of an application for the registration of a new individual non-government school only if the Registration Board notifies the Minister of its intention to do so not less than 3 days before doing so.

176. Term of registration of individual non-government school

- (1) In this section –

existing school means a non-government school that, immediately before an application for renewal of registration is made under section 171, was registered as an individual non-government school.

- (2) If a new individual non-government school is registered, in accordance with section 167(4), as an individual non-government school, it is

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registered for a term of 12 months, unless its registration is sooner cancelled.

- (3) If a transitioning non-government school is registered, in accordance with section 170(4), as an individual non-government school, it is registered for the term not exceeding 5 years determined by the Registration Board and specified in the school's certificate of registration, unless the registration is sooner cancelled.
- (4) If the registration of an existing school is renewed under section 173, it is registered for the term not exceeding 5 years determined by the Registration Board and specified in the school's certificate of registration, unless the registration is sooner cancelled.

177. Certificate of registration of individual non-government school

- (1) On –
 - (a) the registration of a new individual non-government school as an individual non-government school; or
 - (b) the registration of a transitioning non-government school as an individual non-government school; or
 - (c) the renewal of the registration of a registered individual school –

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the Registrar is to issue to the governing body of the school a certificate of registration of the school as an individual non-government school.

- (2) The certificate of registration is to set out –
 - (a) the name and address of the registered individual school; and
 - (b) the name and address of the governing body of the registered individual school; and
 - (c) any conditions to which the registration is subject; and
 - (d) the term of the registration; and
 - (e) any other matter the Registration Board or Registrar considers appropriate.
- (3) The Registrar may issue a replacement certificate of registration –
 - (a) if satisfied that the certificate of registration has been lost, destroyed or badly defaced; and
 - (b) on payment of any fee determined by the Registration Board and approved by the Minister.

178. Suspension of registration of individual non-government school

- (1) In this section –

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relevant standards means whichever of the following is appropriate in the circumstances:

- (a) standards for registration of a new individual non-government school prescribed by the regulations;
 - (b) standards for renewal of registration of a registered individual school prescribed by the regulations.
- (2) The Registration Board may suspend the registration of a registered individual school for a period not exceeding 12 months –
- (a) if satisfied that –
 - (i) the school no longer meets the relevant standards; or
 - (ii) the school or its governing body is not complying with any condition to which the registration is subject; or
 - (iii) the school’s governing body has failed to comply with a direction given to it under section 194; or
 - (iv) it is in the best interests of the students at that school to do so; or
 - (b) if the school’s governing body has notified the Registration Board, in

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- writing, that the school will have no enrolments for a specified period of time;
or
- (c) for any reason prescribed by the regulations.
- (3) In determining whether or not to suspend the registration of a registered individual school, the Registration Board –
- (a) is to consider any reports provided by the Registrar under Division 6 in relation to the school; and
- (b) may take into account any information it considers relevant; and
- (c) is to allow the governing body of the school a reasonable opportunity to make written submissions in relation to the matter; and
- (d) must consider any such submissions.
- (4) On suspending the registration of a registered individual school, the Registration Board, in writing, is to notify –
- (a) the governing body of the school of –
- (i) the suspension; and
- (ii) the date on which the suspension takes effect; and
- (iii) the reasons for the suspension; and

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- (b) the Minister of the suspension and the date on which it takes effect; and
 - (c) the Secretary of the department of the Commonwealth government having responsibilities in relation to education and training of the suspension and the date on which it takes effect.
- (5) The suspension of the registration of a registered individual school takes effect on the day specified in the notice provided to its governing body under subsection (4).

179. Cancellation of registration of individual non-government school

- (1) The Registration Board may cancel the registration of an individual non-government school –
- (a) if satisfied that –
 - (i) the school no longer meets the standards for registration of an individual non-government school; or
 - (ii) the school or its governing body is not complying with any condition to which the registration is subject; or
 - (iii) the school’s governing body has failed to comply with a direction given to it under section 194; or

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- (iv) it is in the best interests of the students at that school to do so; or
 - (b) if the school’s governing body notifies the Registration Board, in writing, that the school will have no enrolments for a specified period of time; or
 - (c) for any reason prescribed by the regulations.
- (2) In determining whether or not to cancel the registration of a registered individual school, the Registration Board –
- (a) is to consider any reports provided by the Registrar under Division 6 in relation to the school; and
 - (b) may take into account any information it considers relevant; and
 - (c) is to allow the governing body of the school a reasonable opportunity to make written submissions in relation to the matter; and
 - (d) must consider any such submissions.
- (3) On cancelling the registration of a registered individual school, the Registration Board, in writing, is to notify –
- (a) the governing body of the school of –
 - (i) the cancellation; and

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- (ii) the date on which the cancellation takes effect; and
 - (iii) the reasons for the cancellation; and
 - (b) the Minister of the cancellation and the date on which it takes effect.
 - (c) the Secretary of the department of the Commonwealth government having responsibilities in relation to education and training of the cancellation and the date on which it takes effect.
- (4) The cancellation of the registration of a registered individual school takes effect on the day specified in the notice provided to its governing body under subsection (3).

Division 4 – Registration guidelines

180. Registration guidelines

- (1) The Registration Board may prepare draft guidelines on the procedures to be followed in –
 - (a) the registration of systems of non-government schools; and
 - (b) the registration of new individual non-government schools as registered individual schools; and
 - (c) the registration of transitioning non-government schools as registered individual schools; and

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- (d) the renewal of registration of registered individual schools.
- (2) The Registration Board, from time to time, may prepare draft amendments to the guidelines, a draft rescission of them or a draft rescission of them and draft substitute guidelines.
- (3) In preparing any draft guidelines, amendment, rescission or substitution, the Registration Board is to consult with any organisations representing registered schools or systems of non-government schools.
- (4) After preparing any draft guidelines, amendment, rescission or substitution, the Registration Board is to submit the draft to the Minister for approval.
- (5) The Minister may –
 - (a) approve the draft; or
 - (b) require the Registration Board to prepare a further draft for the reasons specified by the Minister.
- (6) The guidelines, an amendment, a rescission and substitute guidelines, as approved by the Minister, are to be published in the manner the Registration Board considers appropriate.
- (7) An amendment of the guidelines is taken to be incorporated with the guidelines.
- (8) A guideline that is inconsistent with this Act is invalid to the extent of the inconsistency.

- (9) The guidelines, an amendment, a rescission and substitute guidelines are not statutory rules for the purposes of the *Rules Publication Act 1953*.

Division 5 – Registration reviews

181. Purpose of registration review

A registration review is carried out to assess a system of non-government schools, a new individual non-government school, a transitioning non-government school or a registered individual school for the purpose of providing information to the Registrar to assist him or her in preparing a report under section 148, 165, 169 or 172.

182. Request for registration review

- (1) The Registration Board is to request the Registrar, in writing, to cause a review to be carried out for a purpose specified in section 181.
- (2) A request for a registration review may be made before or after the application for –
- (a) registration of a system of non-government schools, a new individual non-government school or a transitioning non-government school; or
 - (b) renewal of registration of a registered individual school –

is lodged.

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- (3) In the case of a registered individual school, the Registration Board is to request that a registration review be carried out before the registration ceases or is renewed.
- (4) The request for a review may contain instructions and directions relating to the carrying out of the review.

183. Carrying out registration review

- (1) The Registrar is to ensure that a registration review is carried out, in accordance with the request of the Registration Board made under section 182, by a registration officer.
- (2) One member of the Registration Board is entitled to accompany the registration officer, and be present, during a registration review.
- (3) In carrying out a registration review, the registration officer is to comply with the instructions and directions specified in the request made under section 182 and any other instructions issued by the Registration Board in relation to the registration review.
- (4) In carrying out a registration review, the registration officer may exercise, in relation to premises –
 - (a) from which the system of non-government schools is administered; or
 - (b) on which the member school of the system of non-government schools, new

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individual non-government school, transitioning non-government school or registered individual school is, or is to be, operated; or

- (c) on which any record or information relating to the operation of that system or school is kept –

any powers he or she may exercise under Subdivision 3 of Division 6.

184. Report on registration review

- (1) As soon as reasonably practicable after the completion of a registration review, the Registrar is to detail the findings of the review in his or her report under section 148, 165, 169 or 172.
- (2) The findings, in relation to a system of non-government schools, are to –
- (a) specify whether the system, and each school which is a member of the system, meets the requirements for registration of the system; and
- (b) if the system, or any such school, does not meet all the requirements for registration of the system, provide details of the failure to meet those requirements; and
- (c) specify whether the approved authority for the system is performing its functions competently; and

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- (d) if the approved authority for the system is not performing its functions competently, provide details of the failure to competently perform its functions; and
 - (e) provide details of any requirements made, during the registration review, by a registration officer under section 194 of the approved authority for the system or of the governing body or principal of a registered school which will become a registered system school on registration of the system.
- (3) The findings, in relation to a new individual non-government school, transitioning non-government school or registered individual school, are to –
- (a) specify whether the proposed school or school meets the relevant requirements for registration; and
 - (b) if the proposed school or school does not meet all the requirements for registration, provide details of the failure to meet those requirements; and
 - (c) provide details of any requirements made, during the registration review, by a registration officer under section 194 of the governing body of the proposed school or school or of the principal of the school.

Division 6 – Monitoring compliance with this Part and with registration

Subdivision 1 – Monitoring compliance with requirement for non-government schools to be registered

185. Power to inspect premises, &c., to prevent operation of unregistered non-government school

If a registration officer reasonably suspects that –

- (a) an offence under section 144 is being, or has been, committed on any premises; or
- (b) evidence of any such offence is being kept or is on any other premises –

the registration officer may exercise in relation to those premises or other premises any powers he or she may exercise under Subdivision 3.

Subdivision 2 – Registration inspections

186. Request for registration inspection

(1) In this section –

relevant standards means whichever of the following is appropriate in the circumstances:

- (a) standards for registration of a system of non-government schools prescribed by the regulations;

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- (b) standards for registration of a new individual non-government school prescribed by the regulations;
 - (c) standards for renewal of registration of a registered individual school prescribed by the regulations.
- (2) To ensure that a registered system of non-government schools or a registered school is complying with this Act, any relevant standards and any conditions to which its registration is subject, the Registration Board may request the Registrar, in writing, to cause an inspection of the system or the registered school to be carried out.

187. Carrying out registration inspection

- (1) The Registrar is to ensure that a registration inspection is carried out, in accordance with the request of the Registration Board made under section 186, by a registration officer.
- (2) In carrying out a registration inspection, the registration officer may exercise, in relation to premises –
 - (a) from which the system of non-government schools is administered; or
 - (b) on which the registered school is operated; or

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- (c) on which any record or information relating to the operation of that system or school is kept –

any powers he or she may exercise under Subdivision 3.

188. Report on registration inspection

- (1) As soon as reasonably practicable after the completion of a registration inspection, the Registrar is to provide the Registration Board with a report, in writing, in relation to the inspection.
- (2) The report, in relation to a system of non-government schools, is to –
 - (a) specify whether the system and, if a registered system school which is a member of the system is inspected as part of the system inspection, that school meet the requirements for registration of the system; and
 - (b) if the system does not meet a requirement for registration of the system, provide details of the failure to meet that requirement; and
 - (c) specify whether the approved authority for the system is performing its functions competently; and
 - (d) if the approved authority for the system is not performing its functions

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- competently, provide details of the failure to competently perform its functions; and
- (e) include the recommendations of the Registrar in relation to the continuing registration of the system or the suspension or cancellation of the registration of the system.
- (3) The report, in relation to a registered school, is to –
- (a) specify whether the school meets the relevant requirements for registration; and
- (b) if the school does not meet a requirement for registration, provide details of the failure to meet that requirement; and
- (c) provide details of any directions provided, during the registration inspection, by a registration officer to the approved authority for the system of non-government schools of which the school is a member or to the governing body or principal of the school; and
- (d) include the recommendations of the Registrar in relation to the continuing registration of the school or the suspension or cancellation of the registration of the school.
- (4) On receipt of the report, the Registration Board, in writing, may require the Registrar to provide

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further information, reasons or explanations in relation to the registration inspection.

189. Fee for registration inspection

- (1) The Registration Board, with the approval of the Minister, is to determine that –
 - (a) a fee in respect of a registration inspection is payable; and
 - (b) the amount of that fee.
- (2) The fee determined under subsection (1) may be different according to whether the inspection is for a system of non-government schools, a registered system school or a registered individual school.
- (3) The fee for a registration inspection is payable –
 - (a) in the case of an inspection of a system of non-government schools, by the approved authority; and
 - (b) in the case of an inspection of a registered school, by the governing body of the school.
- (4) The Registration Board may waive the fee for a registration inspection, or part of the fee, in special circumstances.
- (5) In determining whether special circumstances exist for the purposes of subsection (4), the Registration Board is to take into account any relevant Ministerial instructions.

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Subdivision 3 – Powers of registration officers

190. Powers of registration officer in relation to unregistered premises

(1) In this section –

unregistered premises means premises referred to in section 185.

(2) A registration officer, in respect of unregistered premises may, at any reasonable time and without warrant –

- (a) enter and remain on the premises if the premises are not a residence, using such force as necessary; and
- (b) search and inspect the premises; and
- (c) open or break open and search anything on the premises in which a document or other thing that may be relevant to the operation of a non-government school that is not registered may be kept; and
- (d) examine, make copies of or take extracts from any document on the premises; and
- (e) seize any document or thing on the premises which appears to the registration officer to be evidence of an offence under section 144; and
- (f) take photographs, films, visual recordings and audio recordings of the premises and documents and things on

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the premises but not of any person on the premises; and

- (g) require any person who apparently works on the premises to give reasonable assistance to the registration officer in exercising his or her powers under this section, including by answering the questions of the registration officer; and
 - (h) if the registration officer has reason to believe that a person who apparently works on the premises has possession of a document which is relevant to an offence under section 144, require the person, in writing, to provide the document, or a copy of the document, as specified in the requirement.
- (3) A requirement under subsection (2)(h) may direct that the document or copy be delivered –
- (a) at a specified place; and
 - (b) to the Registrar or any other registration officer; and
 - (c) within a specified period or by a specified day; and
 - (d) in person, by mail or in another specified manner.
- (4) A person must comply with a requirement under subsection (2)(h).

Penalty: Fine not exceeding 20 penalty units.

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- (5) If any document or thing is obtained or seized under this section, that document or thing, evidence of it or evidence of the obtaining or seizing of it is not admissible against any person in any civil or criminal proceedings, other than proceedings for an offence against this Act.
- (6) If asked by a person on, and apparently in charge of, premises entered by a registration officer under this section to produce his or her identity card, the registration officer may not further exercise any powers under this section unless he or she produces the identity card.

191. Powers of registration officer in relation to registered premises

- (1) In this section –

registered premises means any premises referred to in section 183(4) or section 187(2) including, in the case of a registered school, a boarding house or residence for students operated by the school;

relevant standards means whichever of the following is appropriate in the circumstances:

- (a) standards for registration of a system of non-government schools prescribed by the regulations;

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(b) standards for registration of a new individual non-government school prescribed by the regulations;

(c) standards for renewal of registration of a registered individual school prescribed by the regulations;

residence does not include a boarding house or residence operated for students by a school.

(2) A registration officer, in respect of registered premises may, at any reasonable time and without warrant –

(a) enter and remain on the premises if the premises are not a residence; and

(b) search and inspect the premises; and

(c) open and search anything on the premises in which a document or thing that may be relevant to whether the registered system of non-government schools concerned, or registered school concerned, is complying with relevant standards and any conditions to which its registration is subject; and

(d) examine, make copies of or take extracts from any document on the premises; and

(e) take photographs, films, visual recordings and audio recordings of the

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premises and things on the premises but not of any person on the premises; and

- (f) require any person who apparently works on the premises to give reasonable assistance to the registration officer in exercising his or her powers under this section, including by answering the questions of the registration officer.
- (3) A registration officer, in respect of registered premises lawfully entered under subsection (2) may, at any reasonable time but with a warrant, seize any document or thing as specified in the warrant.
- (4) If asked by a person on, and apparently in charge of, premises entered by a registration officer under this section to produce his or her identity card, the registration officer may not further exercise any powers under this section unless he or she produces the identity card.

192. Warrant to seize document, &c.

- (1) In this section –

registered premises means any premises referred to in section 183(4) or section 187(2) including, in the case of a registered school, any boarding house or residence for students operated by the school;

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relevant standards means whichever of the following is appropriate in the circumstances:

- (a) standards for registration of a system of non-government schools prescribed by the regulations;
 - (b) standards for registration of a new individual non-government school prescribed by the regulations;
 - (c) standards for renewal of registration of a registered individual school prescribed by the regulations.
- (2) If a registration officer has reason to believe that any document or thing on registered premises may be evidence of an offence under this Act, evidence of a failure to comply with relevant standards or a condition to which the registration of a registered system of non-government schools or a registered school is subject or evidence relevant to a registration inspection, the registration officer may apply to a justice for a warrant to seize the document or thing.
- (3) On the application of a registration officer, a justice may issue a warrant if he or she is satisfied that there are reasonable grounds for believing it necessary for a registration officer to seize a document or thing as specified in the application.

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- (4) A registration officer named in the warrant, and any person assisting the officer, may seize the document or thing as specified in the warrant.
- (5) A warrant has effect for a period of 30 days after the day on which it is issued.

193. Warrant to enter residence

- (1) In this section –

registered premises means any premises referred to in section 183(4) or section 187(2) including, in the case of one or more registered schools, any boarding house or residence for students operated by the governing bodies of those schools;

residence does not include a boarding house or residence operated by a school for its students;

unregistered premises means premises referred to in section 185.

- (2) A registration officer may apply to a justice for a warrant to exercise, in relation to a residence, the powers in respect of unregistered premises specified in section 190 or registered premises specified in section 191, as appropriate, if the registration officer has reason to believe that –
 - (a) a non-government school is being operated in or from the residence in contravention of section 144; or

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- (b) any document or thing that is, or may be, evidence of an offence against this Act is, or may be, in the residence; or
 - (c) any document or thing that the approved authority for a registered system of non-government schools, or the governing body of a registered school, has failed to provide in accordance with a requirement made under section 194(1) is, or may be, relevant to a failure by the registered system of non-government schools, or registered school, to –
 - (i) meet the relevant standards; or
 - (ii) comply with the conditions to which its registration is subject –and is, or may be, in the residence.
- (3) On the application of a registration officer, a justice may issue a warrant if he or she is satisfied that there are reasonable grounds for believing it necessary for a registration officer to exercise powers under section 190 or section 191 for the reasons specified in the application.
- (4) A registration officer named in the warrant, and any person assisting the officer, may –
- (a) enter and remain in the residence specified in the warrant, using such force as is necessary; and
 - (b) exercise his or her powers under section 190 or section 191, as specified

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in the warrant, on or in relation to the residence.

- (5) A warrant has effect for a period of 30 days after the day on which it is issued.

194. Requirement to provide information, document or thing

- (1) If a registration officer reasonably believes that an approved authority or the governing body of a registered school has, or may have, possession of any information, document or thing that is, or may be, relevant to carrying out a registration review or a registration inspection, the registration officer may require the approved authority or governing body, in writing, to provide the information, document or thing as specified in the requirement.
- (2) A requirement may direct that the information or document be delivered –
- (a) at a specified place; and
 - (b) to the Registrar or another registration officer; and
 - (c) within a specified period or by a specified day; and
 - (d) in person, by mail or in another specified manner.
- (3) An approved authority or governing body must –
- (a) comply with a requirement; or

- (b) if it does not have possession of the information, document or thing, deliver written notice of that fact, and information as to who may have possession, in accordance with the directions specified in the requirement for delivery of the information, document or thing.

195. Possession of document by Registrar

- (1) In this section –

certified copy means a copy certified by the Registrar to be a true copy.

- (2) If, under this Subdivision, a registration officer has seized a document or the Registrar has been provided with a document in compliance with the requirement of a registration officer –
 - (a) the Registrar may retain the document for so long as is necessary for the purposes of this Act; and
 - (b) the registration officer or Registrar must provide notice, in writing, of that seizure or retention to the owner as soon as reasonably practicable; and
 - (c) on the request of a person or organisation that would be entitled to possession of the document if it were not in the possession of the Registrar, the Registrar must provide the person or organisation

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with a certified copy of the document as soon as reasonably practicable.

- (3) A certified copy of a document referred to in subsection (2) is to be received in all courts and elsewhere as evidence as if it were the original.

196. Using assistant

- (1) In this section –

unregistered premises means premises referred to in section 185.

- (2) While exercising powers under this Subdivision, a registration officer may be accompanied and assisted by such persons as the Registrar considers appropriate.

197. Obstruction, &c., of registration officer

A person must not assault, resist, impede, obstruct or hinder a registration officer or a person assisting a registration officer lawfully exercising powers under this Subdivision.

Penalty: Fine not exceeding 20 penalty units.

Division 7 – Reviews of determinations

198. Review of determination

- (1) In this section –

prescribed determination means –

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- (a) the refusal of the Registration Board to grant an application for the registration of a system of non-government schools; or
- (b) the grant by the Registration Board of an application for the registration of a system of non-government schools subject to conditions; or
- (c) the imposition by the Registration Board of a condition to which the registration of a system of non-government schools is subject or the variation by the Registration Board of such a condition; or
- (d) the suspension or cancellation by the Registration Board of the registration of a system of non-government schools; or
- (e) the imposition by the Registration Board of a condition to which the registration of a registered system school is subject or the variation by the Registration Board of such a condition; or
- (f) the suspension or cancellation by the Registration Board of a registered system school; or
- (g) the refusal by the Minister to grant an application for the registration of a new individual

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- non-government school as a registered individual school; or
- (h) the grant by the Minister of an application for the registration of a new individual non-government school as a registered individual school subject to conditions; or
 - (i) the refusal by the Registration Board to grant an application for the registration of a transitioning non-government school as a registered individual school; or
 - (j) the grant by the Registration Board of an application for the registration of a transitioning non-government school as a registered individual school subject to conditions; or
 - (k) the refusal by the Registration Board to grant an application for the renewal of registration of a registered individual school; or
 - (l) the grant by the Registration Board of an application for the renewal of registration of a registered individual school subject to conditions; or
 - (m) the imposition by the Registration Board of a condition to which the registration of a registered individual school is subject or the

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variation by the Registration Board of such a condition; or

- (n) the suspension or cancellation by the Registration Board of the registration of a registered individual school.

(2) If the Minister or Registration Board makes a prescribed determination –

- (a) a person or organisation aggrieved by that determination may apply to the Magistrates Court (Administrative Appeals Division) for a review of the determination; and
- (b) that determination is a reviewable decision for the purposes of the *Magistrates Court (Administrative Appeals Division) Act 2001*.

Division 8 – Principals

199. Qualifications of principal

A person may not be appointed as principal of a registered school unless he or she –

- (a) is a registered teacher, within the meaning of the *Teachers Registration Act 2000*, who has full registration under that Act; and
- (b) has any other qualification prescribed by the regulations.

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200. Functions of principal

- (1) The principal of a registered school must allow –
 - (a) any registration officer to enter the school premises when authorised by this Act to do so; and
 - (b) any person acting under the authority of the Minister to enter the school premises for any purpose authorised by the Minister.
- (2) For the purposes of subsection (1)(b), the Minister may authorise –
 - (a) a class of persons by including it in the Ministerial instructions; or
 - (b) an individual person in writing provided to the person.

201. Removal of adult for unacceptable behaviour

- (1) If the principal of a registered school is of the opinion that an adult person on the school premises or present at a school activity is behaving unacceptably, taking into account any behaviour management policy for the school, the principal may require the person, orally or in writing, to do one or both of the following:
 - (a) to leave the school premises or to remove himself or herself from the school activity;

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- (b) to not re-enter the school, or to remain away from the school activity, for the period specified by the principal in that requirement.
- (2) A person must comply with a requirement made by a principal under subsection (2).

Penalty: Fine not exceeding 10 penalty units.
- (3) If a person refuses to leave school premises or a school activity when required to do so under subsection (2), or re-enters school premises or presents himself or herself at a school activity in contravention of a requirement under that subsection, the principal may request the assistance of another person in removing the person from the school premises or school activity.
- (4) As soon as reasonably practicable after making an oral requirement under subsection (2), the principal is to confirm that requirement in writing provided to the relevant person.
- (5) The principal of a registered school may delegate his or her powers and functions under this section to a teacher or other staff member of the school on the condition that the teacher or other staff member may exercise and perform those powers and functions only if the principal is absent from the school or school activity.

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Division 9 – Grants

202. Purpose of this Division

The purpose of this Division is to allow the Minister to approve grants to the governing bodies of registered schools for the purpose of delivering a high-quality, and equitable, education to the students at those schools.

203. Grant

- (1) The Minister, in a calendar year, may make a grant to a school if the school is not operated for the private gain of its governing body.
- (2) If the Minister makes a grant, the Minister is to –
 - (a) determine the amount of the grant in accordance with section 204; and
 - (b) cause that amount to be paid to the governing body of the school or another person or organisation approved under section 208 unless the governing body has refused acceptance of the grant under subsection (3).
- (3) The governing body of the registered school to which a grant is made may accept or refuse to accept it.

204. Amount of grant

- (1) In this section –

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eligible enrolment means an enrolment at a registered school of a child, or other person, that is a member of a class of children, or persons, specified in the Ministerial instructions for the purposes of this section.

- (2) The amount of a grant made to a registered school under section 203 is to be –
- (a) based on the number of full-time eligible enrolments and full-time equivalent eligible enrolments at the school according to any factors or circumstances the Minister determines; and
 - (b) based on the needs of the school as determined by the Minister after considering –
 - (i) any other current State and Commonwealth funding arrangements and agreements in relation to the school; and
 - (ii) any other factors or circumstances the Minister considers relevant.
- (3) Despite subsection (2), if a method of determining the amount of a grant made under section 203 is prescribed by the regulations, the Minister is to determine the amount of the grant in accordance with that method.

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205. Use of grant

A grant made under section 203 to a registered school may be used only for one or more of the following purposes:

- (a) to offset any reasonable costs incurred by the governing body of the school in relation to that school or in relation to the education of students of that school;
- (b) a purpose allowed by the conditions to which the grant is subject.

206. Additional grant

- (1) The governing body of a registered school to which a grant is made under section 203 in a particular calendar year, and which is not operated for the private gain of its governing body, may apply at any time in that calendar year for an additional grant.
- (2) An application is to be –
 - (a) in a form approved by the Minister; and
 - (b) lodged with the Minister; and
 - (c) accompanied by any documents the Minister considers relevant for the purpose of determining the application.
- (3) In determining the application, the Minister may –

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- (a) grant the application and make an additional grant; or
 - (b) refuse to grant the application.
- (4) An additional grant may only be made for one or both of the following purposes:
- (a) an educational purpose;
 - (b) offsetting any eligible capital expenditure incurred by the applicant governing body of the registered school or by that school.
- (5) If the Minister makes an additional grant, the Minister is to –
- (a) determine the amount of the grant; and
 - (b) cause that amount to be paid to the applicant governing body or another person or organisation approved under section 208.

207. Amount and use of additional grant

- (1) An additional grant made under section 206 may only be used for the purpose for which it is approved.
- (2) An additional grant is for the amount determined by the Minister, whether it is the amount requested in the application under section 206 or a lower amount.

208. Grant or additional grant paid to other person

At the request of the governing body of a registered school to which a grant or additional grant is made under section 203 or 206, the Minister may approve the payment of the grant or additional grant to any person or organisation nominated by the governing body.

209. Grant and additional grant subject to conditions

- (1) If the Minister makes a grant or additional grant to a registered school under section 203 or 206, the grant or additional grant is subject to the conditions determined by the Minister, whether determined on the making of the grant or additional grant or under subsection (2).
- (2) The Minister, at any time, may –
 - (a) impose conditions or further conditions on a grant or additional grant; or
 - (b) vary the conditions to which a grant or additional grant is subject; or
 - (c) remove any, or all, of the conditions to which a grant or additional grant is subject.
- (3) Without limiting the conditions to which a grant or additional grant may be subject, the conditions may include conditions in respect of the keeping and provision of records relating to the use of the grant or additional grant and its

effect on the performance of the registered school.

210. Certificate certifying use of grant or additional grant

The governing body of a registered school to which a grant is made under section 203 must submit to the Secretary, within 6 months after the end of the school's relevant financial year, a statement by an independent auditor certifying that the grant, and any additional grant made to the school under section 206, was used for purposes permitted by this Act and for which the grant or additional grant was made.

Penalty: Fine not exceeding 100 penalty units.

211. Access to school records

- (1) The governing body of a registered school to which a grant is made under section 203, or both such a grant and an additional grant under section 206 are made, must –
 - (a) provide access to the school and any financial records or other relevant records, including records relating to the delivery of education, kept by it to any person authorised by the Minister; and
 - (b) if required by the Minister or any person authorised by the Minister, produce any such record; and

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- (c) if required by the Minister or any person authorised by the Minister, provide a copy of any such record to the Minister or person in accordance with the requirement.
- (2) A requirement under subsection (1)(c) may direct that the copy of a record be delivered –
- (a) at a specified place; and
 - (b) to the Minister or person authorised by the Minister; and
 - (c) within a specified period or by a specified day; and
 - (d) in person, by mail or in another specified manner.
- (3) The governing body of a registered school must comply with subsection (1).

212. Provision of further information relating to use of grant

- (1) The Minister or a person authorised by the Minister may require the governing body of a registered school, a person or an organisation to which has been paid a grant made under section 203, or both such a grant and an additional grant made under section 206, to provide information in relation to the use of the grant and additional grant and the effect of the grant and additional grant on the performance of

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the relevant school, as specified in the requirement.

- (2) A requirement under subsection (1) –
- (a) is to be in writing; and
 - (b) is to detail the information required to be provided; and
 - (c) may specify the form and format in which the information is to be provided; and
 - (d) may direct that the information be delivered –
 - (i) at a specified place; and
 - (ii) to the Minister or person authorised by the Minister; and
 - (iii) within a specified period or by a specified day; and
 - (iv) in person, by mail or in another specified manner.
- (3) The governing body of a registered school, a person or an organisation which is required to provide information under subsection (1) must comply with the requirement.

213. Refund of grant and additional grant

- (1) If the Minister is satisfied that –

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- (a) the registration of a registered school to which a grant made under section 203 had been paid, or both such a grant and an additional grant made under section 206 have been paid, has been suspended or cancelled; or
- (b) a condition to which the registration of such a school is subject has been contravened; or
- (c) the governing body of such a school has contravened section 211(3) or 212(3); or
- (d) a condition to which the grant or additional grant is subject has been contravened –

the Minister may require the governing body of the registered school, in writing, to pay to the Minister an amount equivalent to the whole or part of the grant, or the grant and the additional grant, as determined by the Minister, within the period specified in the requirement.

- (2) In determining under subsection (1) the amount to be paid to the Minister if the registration of a registered school is suspended or cancelled, the Minister is to determine an amount that is proportional to that period for which the grant made under section 203, or both that grant and an additional grant made under section 206, was paid but during which the registered school is closed by reason of the suspension or cancellation of its registration.

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- (3) If the registered school has contravened a condition to which its registration is subject, the Minister is to comply with any relevant regulations in determining, under subsection (1), the amount to be paid to the Minister.
- (4) The Minister may recover from a governing body, as a debt due and owing to the Crown and in a court of competent jurisdiction, an amount that the governing body is required to pay to the Minister under subsection (1).

Division 10 – Non-government Schools Register

214. Non-government Schools Register

- (1) The Registrar is to keep a register of registered systems of non-government schools and registered schools.
- (2) The register is to include –
 - (a) in respect of each registered school –
 - (i) its name and address; and
 - (ii) the level or type of education provided by it; and
 - (iii) the name and address of the governing body of the school; and
 - (iv) whether or not the school is a member of a registered system of non-government schools and, if it is, the name and address of the

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- approved authority for the system; and
- (v) any conditions to which the registration is subject; and
- (b) in respect of each registered system of non-government schools –
- (i) the name and address of its approved authority; and
- (ii) a list of the schools which are members of the system; and
- (iii) any conditions to which the registration is subject; and
- (c) any other information required to be included by the Ministerial instructions; and
- (d) any other information the Registration Board requires, in writing provided to the Registrar, to be included.
- (3) The register may contain any other information the Registrar considers appropriate.
- (4) The Registrar is to publish the register in the manner he or she considers appropriate.

**PART 7 – OFFICE HOLDERS, STATUTORY BODIES
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Division 1 – Principal Officer, Non-attendance

215. Appointment of Principal Officer, Non-attendance

The Secretary may appoint a State Service officer or State Service employee employed in the Department as the Principal Officer, Non-attendance and that officer or employee may hold that office in conjunction with State Service employment.

216. Functions of Principal Officer, Non-attendance

The Principal Officer, Non-attendance has the following functions:

- (a) to make Compulsory Schooling Orders, if appropriate;
- (b) any other function imposed by this Act.

217. Powers of Principal Officer, Non-attendance

The Principal Officer, Non-attendance has the power to do all things necessary or convenient to perform his or her functions, other than –

- (a) employ staff; or
- (b) borrow money from any person or organisation or loan money to any person or organisation; or

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- (c) enter into contracts; or
- (d) do any other thing prohibited by the regulations.

Division 2 – Registrar, Education

Subdivision 1 – Appointment, functions and duties of Registrar, Education

218. Appointment of Registrar, Education

Subject to and in accordance with the *State Service Act 2000*, a person may be appointed as the Registrar, Education.

219. Functions of Registrar, generally

The Registrar has the functions imposed by this Act.

220. Powers of Registrar

The Registrar has the power to do all things necessary or convenient to perform his or her functions, other than –

- (a) employ staff; or
- (b) borrow money from any person or organisation or loan money to any person or organisation; or
- (c) do any other thing prohibited by the regulations.

221. Delegation by Registrar

The Registrar may delegate to a State Service officer or State Service employee employed in the Department any of his or her functions or powers under this Act other than this power of delegation.

Subdivision 2 – Specific functions of Registrar

222. Functions of Registrar in relation to student absenteeism

The Registrar has the following functions:

- (a) functions imposed by this Act in relation to student absenteeism and compulsory conciliation conferences;
- (b) to issue requirements following a compulsory conciliation conference, if appropriate.

223. Functions of Registrar in relation to non-government schools and the Registration Board

The Registrar has the following functions in relation to non-government schools and the Registration Board:

- (a) to keep full and correct details of the proceedings of the Registration Board;
- (b) to provide administrative support to the Registration Board;

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- (c) to oversee registration reviews and registration inspections;
- (d) to provide reports and recommendations, as required by this Act, in relation to applications for –
 - (i) registration of systems of non-government schools, new individual non-government schools and transitioning non-government schools; and
 - (ii) renewal of registration of registered individual schools;
- (e) to provide information, and advice, to the Minister and the Registration Board in relation to the processes for registration reviews, registration inspections and monitoring compliance with Part 6;
- (f) any other functions imposed by this Act in relation to non-government schools and the Registration Board.

224. Functions of Registrar in relation to home education

The Registrar has the following functions in relation to home education:

- (a) to assess and determine applications for approval of a proposed home education program;

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- (b) to oversee the carrying out of home education assessments;
- (c) to provide administrative support to the Tasmanian Home Education Advisory Council;
- (d) any other functions imposed by this Act in relation to home education.

225. Register of home educators and approved home education programs

- (1) The Registrar is to maintain an up-to-date register of approved home education programs and persons who are home educators under those programs.
- (2) The register is to include in relation to each approved home education program –
 - (a) details of each parent who is a home educator under that program; and
 - (b) details of the child in respect of whom the parent is a home educator; and
 - (c) details of the approved home education program and, if it is provided by more than one parent, details of how the program applies in relation to each parent; and
 - (d) details of any conditions to which the approval of the approved home education program is subject; and

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- (e) any other information required by the Ministerial instructions; and
 - (f) any other information the Registrar considers appropriate.
- (3) The Registrar may not publish the register, or divulge any information contained in the register, except as otherwise required or permitted by this or any other Act or as required for the purposes of the administration of this Act.

226. Guidelines relating to home education issued by Registrar

- (1) The Registrar, in consultation with the Tasmanian Home Education Advisory Council, is to issue guidelines as to how any applications for the approval of proposed home education programs, and approved home education programs, will be assessed against the standards prescribed by the regulations for approved home education programs.
- (2) The Registrar, from time to time and in consultation with the Tasmanian Home Education Advisory Council, may –
 - (a) amend the guidelines; or
 - (b) revoke the guidelines and issue substitute guidelines.
- (3) An amendment of the guidelines is taken to be incorporated with the guidelines.

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- (4) The guidelines, an amendment of the guidelines and a revocation of the guidelines are to be published in such manner as the Registrar determines.
- (5) The guidelines, an amendment of the guidelines and a revocation of the guidelines are not statutory rules for the purposes of the *Rules Publication Act 1953*.

227. Annual report by Registrar

- (1) So as to enable the Secretary to comply with section 36 of the *State Service Act 2000*, the Registrar, in each year, is to provide to the Secretary a report on –
 - (a) the performance and exercise of his or her functions and powers for the period of 12 months that ended on the last preceding 30 June; and
 - (b) the activities of the Review Panel during that period.
- (2) The report is to –
 - (a) include any information required by the Secretary; and
 - (b) be completed by the date determined by the Secretary.
- (3) When submitting a report to the Minister under section 36 of the *State Service Act 2000*, the Secretary is to attach to that report as an

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addendum a copy of the report provided to him or her under subsection (1).

Division 3 – Registration officers

228. Appointment of registration officers

- (1) The Secretary may appoint State Service officers and State Service employees employed in the Department as registration officers for the purposes of Division 7 of Part 3 and Part 6.
- (2) The Secretary is to issue each registration officer appointed under subsection (1) with an identity card.
- (3) The identity card must contain a photograph of the registration officer.
- (4) If a person who is a registration officer requires both the identity card under this section and another identity card under this Act, the identity cards may be combined in a single identity card.

Division 4 – Non-government Schools Registration Board

229. Non-government Schools Registration Board

- (1) There is established a Non-government Schools Registration Board consisting of 8 persons appointed by the Minister of whom –
 - (a) one is the chairperson; and
 - (b) one is a person who the Minister considers has knowledge, skills and

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- experience in matters that are relevant to the performance and exercise by the Board of its functions and powers; and
- (c) one is a person employed in the Department; and
 - (d) one is a person selected from nominations submitted by organisations representing registered schools; and
 - (e) one is a person nominated by the person in charge of Catholic education; and
 - (f) 2 are persons selected from nominations submitted by organisations representing the teachers of registered schools; and
 - (g) one is a person selected from nominations submitted by organisations representing parents of children at registered schools.
- (2) In appointing the members of the Registration Board, the Minister is to have regard to –
- (a) the need for the members, collectively, to have the knowledge, skills and experience necessary to enable the Board to perform and exercise competently its functions and powers; and
 - (b) the need for the members of the Board, collectively, to have knowledge, skills and experience in school education, corporate governance, law and financial management; and

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- (c) the desirability of having a Board that has representatives of both sexes.
- (3) An organisation is to nominate, as far as possible, an equal number of males and females.
- (4) If a nomination is not made as required, the Minister may appoint a person without a nomination.
- (5) Schedule 2 has effect with respect to the membership and meetings of the Registration Board.

230. Functions of Registration Board

The Registration Board has the following functions:

- (a) to hear and determine applications for the registration, and renewal of registration, of individual non-government schools;
- (b) to hear and determine applications for the registration of systems of non-government schools;
- (c) to advise, and make recommendations to, the Minister in respect of the registration of newly established schools;
- (d) to oversee the monitoring of registered systems of non-government schools, registered system schools and registered individual schools and ensure that they comply with the standards, prescribed by the regulations, for –

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-
- (i) registration of systems of non-government schools; or
 - (ii) registration of new individual non-government schools; or
 - (iii) renewal of registration of individual non-government schools;
- (e) to advise the Minister, as required, in relation to the registration of non-government schools;
 - (f) to oversee investigations in relation to the operation of non-government schools that are not registered;
 - (g) other functions imposed by this Act;
 - (h) any other function the Minister determines in writing provided to the Registration Board.

231. Powers of Registration Board

The Registration Board may do anything necessary or convenient to perform its functions, other than –

- (a) employ staff; or
- (b) borrow money from any person or organisation or loan money to any person or organisation; or
- (c) enter into contracts; or

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- (d) do any other thing prohibited by the regulations.

232. Financial records of Registration Board

The Registration Board is to keep correct accounts of its receipts and expenditure.

233. Annual report by Registration Board

The Registration Board must submit to the Secretary by 15 August in each year a report on its activities for the previous financial year.

Division 5 – Review Panel

Subdivision 1 – Establishment of Review Panel

234. Establishment of Review Panel

- (1) The Review Panel is established.
- (2) The Review Panel is constituted by the chairperson and 2 other members appointed under section 55 for the purposes of determining an application for a review of the determination of the Principal Officer, Non-attendance to make a Compulsory Schooling Order.
- (3) Schedule 3 has effect with respect to the membership and sittings of the Review Panel.

235. Functions of Review Panel

The Review Panel has the following functions;

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- (a) to review determinations by the Principal Officer, Non-attendance to make Compulsory Schooling Orders in accordance with this Act; and
- (b) other functions imposed by this Act.

236. Powers of Review Panel

The Review Panel may do anything necessary or convenient to perform its functions, other than –

- (a) employ staff; or
- (b) borrow money from any person or organisation or loan money to any person or organisation; or
- (c) enter into contracts; or
- (d) do any other thing prohibited by the regulations.

Subdivision 2 – Members of Review Panel

237. Expressions of interest to be members of Review Panel

- (1) The Registrar, in such manner and at such times as he or she considers appropriate, may call for expressions of interest by persons to be members of the Review Panel.
- (2) A person, in response to a call for expressions of interest by the Registrar or at any other time, may submit to the Registrar, in writing, an

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expression of interest to be a member of the Review Panel.

- (3) On receipt of an expression of interest from a person –
 - (a) the Registrar, if satisfied that the person has appropriate qualifications and experience, must list that person in the register maintained under section 238; or
 - (b) the Registrar, if not so satisfied, is not to list that person in that register.
- (4) In determining whether a person has appropriate qualifications and experience to be listed in the register maintained under section 238, the Registrar is to comply with any Ministerial instructions in relation to the matter.
- (5) The Registrar is to notify, in writing, a person who has submitted an expression of interest as to whether or not he or she has been listed on the register maintained under section 238.

238. Register of persons who may constitute Review Panel

- (1) The Registrar is to maintain an up-to-date register of persons who may be appointed as members of the Review Panel.
- (2) The Registrar may publish the register in such manner, and at such times, as he or she considers appropriate.

239. Withdrawal by person from inclusion on register maintained under section 238

- (1) A person listed on the register maintained under section 238 may request the Registrar, in writing, to remove his or her name and details from the register.
- (2) The Registrar is to comply with the request.

240. Removal of person from register maintained under section 238

- (1) The Registrar may remove a person's name and details from the register maintained under section 238 if –
 - (a) the person has contravened this Act; or
 - (b) the Registrar considers that the person no longer has the appropriate qualifications and experience to be a member of the Review Panel.
- (2) If the Registrar removes a person from the register maintained under section 238, the Registrar is to notify the person, in writing, of the removal and the reasons for it.

Division 6 – Tasmanian Home Education Advisory Council

241. Establishment of Tasmanian Home Education Advisory Council

- (1) The Tasmanian Home Education Advisory Council is established.

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- (2) The Tasmanian Home Education Advisory Council consists of no fewer than 5 members and not more than 7 members appointed by the Minister.
- (3) The Minister is to appoint at least one State Service officer or State Service employee employed in, or for the purposes of, the Department as a member of the Tasmanian Home Education Advisory Council.
- (4) In appointing the members of the Tasmanian Home Education Advisory Council, the Minister is to ensure that a majority of the members have skills in, or experience in or related to, home education.
- (5) In appointing the members of the Tasmanian Home Education Advisory Council, the Minister is to have regard to –
 - (a) the desirability of having as members persons with experience or skills in home education and education, generally; and
 - (b) the desirability of having a Council that has representatives of both sexes.
- (6) The Minister is to appoint one of the members as chairperson of the Tasmanian Home Education Advisory Council.
- (7) Before appointing a person as a member of the Tasmanian Home Education Advisory Council, the Minister is to call for expressions of interest in the appointment by advertising in at least 3

daily newspapers printed, and circulating, in Tasmania.

- (8) The Minister need not comply with subsection (7) if re-appointing a person to the office of member of the Tasmanian Home Education Advisory Council for a consecutive term.
- (9) Schedule 4 has effect with respect to the membership and meetings of the Tasmanian Home Education Advisory Council.

242. Functions of Tasmanian Home Education Advisory Council

The Tasmanian Home Education Advisory Council has the following functions:

- (a) when requested by the Registrar, to provide him or her with advice in relation to applications for approval of a proposed home education program;
- (b) to provide the Minister and the Registrar with advice in relation to home education generally;
- (c) such other functions as the Minister determines;
- (d) such other functions as are prescribed by the regulations.

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243. Powers of Tasmanian Home Education Advisory Council

The Tasmanian Home Education Advisory Council has power to do all things necessary or convenient to perform its functions, other than –

- (a) employ staff; or
- (b) borrow money from any person or organisation or loan money to any person or organisation; or
- (c) enter into contracts; or
- (d) do any other thing prohibited by the regulations.

Division 7 – Employees generally

244. Employees

Subject to and in accordance with the *State Service Act 2000*, persons may be appointed or employed for the purposes of this Act.

Division 8 – Staff, assistance and facilities

245. Staff, assistance and facilities

- (1) The Secretary may arrange for –
 - (a) the services of State Service officers and State Service employees employed in the Department; and
 - (b) facilities; and

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(c) other assistance –

to be made available or provided to each of the persons and bodies specified in subsection (2) to enable him, her or it to perform and exercise his, her or its functions and powers.

(2) Services of State Service officers and State Service employees, facilities and other assistance may be made available under subsection (1) to any or all of the following persons and bodies:

- (a) the Principal Officer, Non-attendance;
- (b) the Registrar;
- (c) the Non-government Schools Registration Board;
- (d) the Review Panel;
- (e) the Tasmanian Home Education Advisory Council;
- (f) a conciliator.

PART 8 – MISCELLANEOUS PROVISIONS

246. Financial assistance

- (1) A school student, or a parent of a school student, at a State school may apply to the Secretary for financial assistance in respect of –
 - (a) any charge made under section 138; or
 - (b) any essential materials the student requires to continue his or her education; or
 - (c) any accommodation costs incurred by the student living away from home to continue education after the completion of Year 10.

- (2) A person who is entitled to attend TasTAFE under section 96 during a year may apply to the Secretary for financial assistance in respect of –
 - (a) any levy imposed under section 86 of the *Training and Workforce Development Act 2013* and imposed in relation to his or her attendance at TasTAFE during that year; or
 - (b) any essential materials the youth or person requires to continue his or her education and training at TasTAFE during that year; or
 - (c) any accommodation costs incurred by the youth or person living away from home

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to continue education and training at TasTAFE during that year.

- (3) The Secretary may grant financial assistance applied for under subsection (1) or (2) if satisfied that –
- (a) the income of the applicant or, in an appropriate case, the parent of the applicant is less than an amount the Secretary may determine; or
 - (b) the applicant or, in an appropriate case, the parent of the applicant is a member of a class of persons determined by the Secretary to be entitled to assistance; or
 - (c) in respect of accommodation costs, the normal residence of the student, youth or person attending a school or TasTAFE is at least 40 kilometres from the nearest appropriate school or appropriate campus of TasTAFE.
- (4) The Secretary may grant financial assistance under subsection (3) consisting of –
- (a) a lump sum; or
 - (b) an allowance; or
 - (c) a combination of a lump sum and allowance.
- (5) A person who may apply for financial assistance under subsection (1) or (2) also may apply to the Secretary for financial assistance towards the

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cost of one pair, or in special circumstances more than one pair, of spectacles per year.

- (6) The Secretary may grant financial assistance applied for under subsection (5) if satisfied that –
- (a) the income of the applicant or, in an appropriate case, the applicant's parent is less than an amount the Secretary may determine; and
 - (b) the spectacles are necessary in order for the student, youth or person attending the school or TasTAFE to continue his or her education.
- (7) The Secretary may grant financial assistance under subsection (6) consisting of any amount the Secretary determines.

247. Employment of children

- (1) In this section –

prescribed child means a school-aged child who is not exempted under section 13 from the requirement to be enrolled at a school;

prescribed youth means a youth who is required under section 24 to participate in an approved learning program or be home educated.

- (2) Except as authorised by the Secretary, a person must not employ, or permit to be employed, a

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prescribed child during the hours when the child is required to –

- (a) attend a school; or
- (b) undertake home education; or
- (c) participate in an individual education program.

Penalty: Fine not exceeding 100 penalty units.

- (3) Except as authorised by the Secretary, a person must not employ, or permit to be employed, a prescribed youth during the hours when the youth is required to –
- (a) participate in his or her approved learning program; or
 - (b) undertake home education.

Penalty: Fine not exceeding 100 penalty units.

- (4) Subsection (3) does not apply if the person employing the prescribed youth is a provider under the youth's approved learning program and employs the youth in accordance with that program.
- (5) It is a defence to an offence against subsection (2) or (3) if the defendant proves that he or she had a reasonable belief that the prescribed child or prescribed youth was not –
- (a) a school-aged child or youth; or
 - (b) a prescribed child or prescribed youth.

248. Corporal punishment in schools

(1) In this section –

staff member, in relation to a school or TasTAFE, includes –

- (a) a teacher employed at the school or TasTAFE; and
 - (b) a person instructing or teaching, or assisting or supporting teaching, at the school or TasTAFE; and
 - (c) any member of the staff of the school or TasTAFE.
- (2) The principal of a school, the chief executive officer of TasTAFE or a staff member of a school or TasTAFE must not administer corporal punishment to a student of that school.

Penalty: Fine not exceeding 100 penalty units.

249. Minister’s advisory councils

- (1) The Minister may establish any advisory council the Minister considers necessary to advise and assist the Minister in the exercise of powers and the performance of functions under this Act.
- (2) The Minister may appoint persons as members of an advisory council on any conditions the Minister considers appropriate.

250. Secretary’s advisory councils

- (1) The Secretary may establish any advisory council the Secretary considers necessary to advise and assist the Secretary in the exercise of powers and the performance of functions under this Act.
- (2) The Secretary may appoint persons as members of an advisory council on any conditions the Secretary considers appropriate.

251. Hostels

- (1) The Minister may enter into an agreement with any person or organisation to provide a hostel for school students.
- (2) A person or organisation providing a hostel must comply with the Secretary’s instructions relating to the management of the hostel.

252. Delegation by Minister

The Minister may delegate to any person any of his or her functions or powers under this Act, other than this power of delegation.

253. Delegation by Secretary

The Secretary may delegate to any person any of his or her functions or powers under this Act, other than –

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- (a) a function or power prescribed by the regulations to be non-delegable; and
- (b) this power of delegation.

254. Immunity from liability

- (1) A member of the Registration Board, Review Panel or a council or committee established under this Act, or any other person, does not incur any personal liability in respect of any act done or omitted in good faith –
 - (a) in the performance or exercise, or the purported performance or exercise, of any function or power under this Act; or
 - (b) in the administration or execution, or the purported administration or execution, of this Act.
- (2) A civil liability that would, but for subsection (1), attach to a member or person referred to in that subsection attaches instead to the Crown.

255. False or misleading statements

A person, in giving any information under this Act, must not –

- (a) make a statement knowing it to be false or misleading; or

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- (b) omit any matter knowing that without that matter the information is false or misleading.

Penalty: Fine not exceeding 50 penalty units.

256. Prosecution for offence

- (1) A prosecution for an offence against this Act must be commenced within one year after the alleged commission of the offence.
- (2) A prosecution for an offence against Part 3 in relation to a school-aged child or youth may be commenced only if the Minister has authorised the commencement of those proceedings.

257. Evidence and presumptions

- (1) In this section –
 - specified* means specified in a certificate referred to in subsection (2).
- (2) In any proceedings in respect of an offence against this Act, a certificate –
 - (a) by the principal of a school certifying that on a specified day or during a specified period a particular school-aged child or youth was enrolled at the school; or
 - (b) by the principal of a school certifying that on a specified day or during a specified period a particular school-aged

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- child or youth did not attend the school;
or
- (c) by the principal of a school certifying that a specified person is a parent of a particular school-aged child or youth who is or was enrolled at the school; or
 - (d) by the principal of a school certifying that –
 - (i) on a specified day the principal, under section 19(2) or section 36(2) requested the parent of a particular school-aged child or youth to provide a certificate from a medical practitioner in relation to any further failure of the child or youth to attend the school because of sickness or incapacity; and
 - (ii) that, after the making of the request, the child or youth failed to attend the school because of sickness or incapacity; and
 - (iii) the parent of the child or youth did not provide a certificate, from a medical practitioner in relation to that failure to attend, as so requested; or
 - (e) by the Secretary certifying that on a specified day a person had or had not been issued with a statement of Year 10

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completion or a Year 12 completion certificate issued by the Secretary; or

- (f) by the Registrar certifying that on a specified day an approved home education program was in force in relation to a child; or
- (g) by the Registrar certifying that on a specified day a particular person was or was not a parent specified in an approved home education program as a parent who is to provide the program or part of it; or
- (h) by the Registrar certifying that on a specified day a person had or had not been issued with a statement of Year 10 completion or a Year 12 completion certificate issued by the Registrar –

is evidence of those facts unless the contrary is proved.

- (3) In any proceedings in respect of an offence against this Part where it is relevant that a person be a school-aged child, youth or child, it is presumed that the person is a school-aged child, youth or child unless the contrary is proved.
- (4) In any proceedings in respect of an offence against this Part where it is relevant that a person be a parent of a school-aged child, youth or child, it is presumed that the person is the parent of the school-aged child, youth or child unless the contrary is proved.

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- (5) If, in any proceedings in respect of an offence against this Part, a certificate that specifies in relation to a particular school-aged child or youth the facts referred to in subsection (2)(d) is tendered to the court, it is presumed that the school-aged child or youth was not sick or incapacitated when further absent from school as specified unless the contrary is proved.
- (6) In any proceedings under this Act, it is not necessary to prove the appointment of the Secretary or a registered officer, or the authority of the Secretary or a registered officer to do anything under this Act, unless a party, by reasonable notice, requires proof of the appointment or authority.
- (7) In any proceedings under this Act, a signature purporting to be the signature of the Secretary or a registered officer is evidence of the signature it purports to be.

258. Appropriation

The following are to be paid from money provided by Parliament for the purpose:

- (a) any financial assistance payable under section 246;
- (b) any grant or additional grant payable under section 203 or 206.

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259. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), regulations may be made in relation to –
 - (a) the enrolment, at a school for kindergarten or compulsory education, of children or classes of children who have not attained the age specified –
 - (i) in section 8 which entitles children to be enrolled at and attend a school for kindergarten; or
 - (ii) in section 9 which entitles children to be enrolled at and attend a State school for the first year of primary education following kindergarten; and
 - (b) financial assistance payable under section 246; and
 - (c) payments of grants or additional grants made under section 203 or 206; and
 - (d) the payment to persons and bodies of money provided by the Commonwealth as financial assistance under the *Australian Education Act 2013* of the Commonwealth and other matters relating to that financial assistance, including, on the making of a

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- determination under section 110(1)(a) or (b) of that Act, the collection by the State from those persons and bodies of the amount specified in the determination and the right to assign the ability to collect that amount; and
- (e) other matters relating to such financial assistance and grants; and
 - (f) the Secretary's instructions and matters provided for in the Secretary's instructions; and
 - (g) the registration of home educators; and
 - (h) the assessments of registered home educators and the educational programs provided by them; and
 - (i) the establishment, functions, powers, proceedings and abolition of school associations; and
 - (j) the registration of systems of non-government schools and individual non-government schools, including the standards for such registration and the suspension and cancellation of the registration; and
 - (k) the records to be kept by registered systems of non-government schools and registered schools; and
 - (l) fees payable under the Act.

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- (3) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (4) The regulations may –
 - (a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.
- (5) The regulations may authorise any matter to be determined, applied or regulated by the Minister, Secretary, Registration Board or another person specified in the regulations.
- (6) The regulations may adopt, either wholly or in part and with or without modification, and either specifically or by reference, any of the standards, rules, codes or specifications of any prescribed person or body or set out in any prescribed law, whether the standards, rules, codes or specifications are made, published or issued before or after the commencement of this section.
- (7) A reference in subsection (6) to standards, rules, codes or specifications includes a reference to an amendment of those standards, rules, codes or specifications, whether the amendment is made,

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published or issued before or after the commencement of this section.

- (8) The regulations may –
- (a) provide for savings and transitional matters that are necessary or expedient as a consequence of the commencement of any provision of this Act; and
 - (b) provide for any of those savings or transitional matters to take effect when a provision of this Act commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.

260. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Education and Training; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Education.

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261. Savings and transitional provisions

The savings and transitional provisions in Schedule 5 have effect.

262. Legislation repealed

The legislation specified in Schedule 6 is repealed.

263. Legislation rescinded

The legislation specified in Schedule 7 is rescinded.

264. Legislation revoked

The legislation specified in Schedule 8 is revoked.

**SCHEDULE 1 – SAVINGS AND TRANSITIONAL
PROVISIONS IF SCHOOL ASSOCIATION DISSOLVED**
Section 110(2)

1. Interpretation

In this Schedule –

transfer notice means a notice under clause 3(1);

transferred liability means any liability or obligation belonging to a school association or its members (in their capacity as members of the association) immediately before the school association is dissolved by the Minister and which is specified in a transfer notice;

transferred property means any property or right vested in a school association or its members (in their capacity as members of the association) immediately before the school association is dissolved by the Minister and which is specified in a transfer notice.

2. Application of Schedule

This Schedule applies in relation to the dissolution of a school association by the Minister under section 110.

3. Property, rights, liabilities and obligations

- (1) If the Minister dissolves a school association under section 110, the Minister, by notice published in the *Gazette*, may –
 - (a) transfer any property or right vested in, and any liability or obligation, whether actual, prospective or contingent, belonging to, that school association or its members (in their capacity as members) to another school association, any other person or the Crown; and
 - (b) provide for any matters that are incidental to the transfer of any such property, right, liability or obligation.
- (2) On the day specified in the notice under subclause (1) –
 - (a) transferred property vests in the school association, the person or the Crown as specified in that notice in accordance with the transfer specified in the notice; and
 - (b) transferred liabilities become the liabilities of the school association, the person or the Crown as specified in that notice in accordance with the transfer specified in the notice.
- (3) A notice under subclause (1) may deal with such other matters as the Minister considers appropriate including, but not limited to, contracts, documents and legal matters.

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- (4) A notice under subclause (1) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

4. Legal matters

- (1) A legal proceeding that is instituted by or against a school association and is pending immediately before its dissolution may be continued by or against the school association, the person or the Crown as specified in a transfer notice or, if a school association, a person or the Crown is not so specified, by or against the Crown.
- (2) A legal proceeding that could have been instituted by or against a school association to enforce a right that had accrued, and was in existence, immediately before its dissolution may be instituted by or against the school association, a person or the Crown as specified in a transfer notice or, if the school association, a person or the Crown is not so specified, by or against the Crown.
- (3) A judgement or order of a court obtained by or against a school association before its dissolution may be enforced by or against the school association, the person or the Crown as specified in the transfer notice or, if the school association, a person or the Crown is not so specified, by or against the Crown.

5. Remaining property and liabilities &c.

- (1) In this clause –

remaining liability means any liability or obligation, whether actual, prospective or contingent, belonging to a school association immediately before its dissolution that is not a transferred liability;

remaining property means any property or right vested in a school association immediately before its dissolution that is not transferred property.

- (2) If a school association is dissolved, any remaining property and remaining liabilities vest in and become the property and liabilities of the Crown.
- (3) If remaining property and remaining liabilities, under subclause (2), have vested in and become the property and liabilities of the Crown, the Minister is to use any property remaining after the satisfaction of the liabilities for the benefit of the school whose school association was dissolved or, if that school no longer exists, another State school in close proximity to where that school was.

6. Remaining contracts

Unless otherwise provided for in a notice under clause 3 and if appropriate, a contract made by a school association but not performed or discharged before its dissolution by the Minister is taken to have been made by the school association, the person or the Crown to whom the relevant transferred property or relevant

transferred liabilities are transferred in the transfer notice.

7. Remaining documents

- (1) Unless otherwise provided for in a notice under clause 3 and if appropriate –
 - (a) a document issued or made by a school association before its dissolution by the Minister is taken to have been issued or made by the school association, the person or the Crown to whom the relevant transferred property or relevant transferred liabilities are transferred in the transfer notice; and
 - (b) a document served on or by, or provided to or by, a school association before its dissolution by the Minister is taken to have been served on or by, the school association, the person or the Crown to whom the relevant transferred property or relevant transferred liabilities are transferred in the transfer notice.
- (2) Unless otherwise provided for in a notice under clause 3 and if appropriate, a reference in a document to a school association that has been dissolved by the Minister is taken to be, or to include, the school association, the person or the Crown to whom the relevant transferred property or relevant transferred liabilities are transferred in the transfer notice.

**SCHEDULE 2 – PROVISIONS WITH RESPECT TO
MEMBERSHIP AND MEETINGS OF REGISTRATION
BOARD**

Section 229(5)

PART 1 – PRELIMINARY

1. Interpretation

In this Schedule –

chairperson means chairperson of the
Registration Board;

member means a member of the Registration
Board.

PART 2 – MEMBERSHIP OF REGISTRATION BOARD

2. Term of office

A member is appointed for a period, not
exceeding 3 years, specified in the member's
instrument of appointment and, if eligible, may
be reappointed.

3. Holding other office

The holder of an office who is required by the
terms of his or her employment to devote the
whole of his or her time to the duties of that
office is not disqualified from –

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- (a) holding that office and also the office of a member; or
- (b) accepting any remuneration payable to a member.

4. *State Service Act 2000*

- (1) The *State Service Act 2000* does not apply in relation to a member in his or her capacity as a member.
- (2) A person may hold the office of member in conjunction with State Service employment.

5. Remuneration and conditions of appointment

- (1) A member is entitled to be paid such remuneration and allowances as the Minister determines.
- (2) A member who is a State Service officer or State Service employee is not entitled to remuneration or allowances under this clause except with the approval of the Minister administering the *State Service Act 2000*.
- (3) A member holds office on such conditions in relation to matters not provided for by this Act as are specified in the member's instrument of appointment.

6. Vacation of office

- (1) A member vacates office if the member –

- (a) dies; or
 - (b) resigns; or
 - (c) is removed from office under subclause (2) or (3).
- (2) The Minister may remove a member from office if the member –
- (a) is absent from 3 consecutive meetings of the Registration Board without the permission of the Board; or
 - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
 - (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for a term of 12 months or longer; or
 - (d) is convicted of an offence under this Act.
- (3) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.

7. Filling of vacancies

If the office of a member becomes vacant, the Minister may appoint a person to the vacant

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office for the remainder of that member's term of office.

8. Validation of proceedings, &c.

- (1) An act or proceeding of the Registration Board or of a person acting under the direction of the Registration Board is not invalidated by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of a member.
- (2) All acts or proceedings of the Registration Board or of a person acting under the direction of the Registration Board are, despite any subsequent discovery of a defect in the appointment of a member or that any other person was disqualified from acting as, or capable of being, a member, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the Registration Board had been fully constituted.

9. Presumptions

In any proceeding by or against the Registration Board, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the Registration Board; or
- (b) the appointment of any member.

PART 3 – MEETINGS OF REGISTRATION BOARD

10. Convening of meetings

- (1) The chairperson, after giving each member reasonable notice of a meeting –
 - (a) may convene a meeting at any time; and
 - (b) must convene a meeting when requested to do so by 3 or more other members.
- (2) If the chairperson is absent from duty or otherwise unable to perform the duties of the office, a meeting may be convened, after reasonable notice of the meeting has been given of it, by –
 - (a) any 3 other members, jointly; or
 - (b) a person authorised by the Registration Board to do so.
- (3) For the purposes of subclauses (1) and (2), what constitutes reasonable notice is to be determined by the Registration Board.

11. Presiding at meetings

- (1) The chairperson is to preside at all meetings of the Registration Board at which he or she is present.
- (2) If the chairperson is not present at a meeting of the Registration Board, a member elected by the members present at the meeting is to preside.

12. Quorum and voting at meetings

- (1) Four members constitute a quorum at a meeting of the Registration Board.
- (2) A meeting of the Registration Board at which a quorum is present is competent to transact any business of the Registration Board.
- (3) At a meeting of the Registration Board –
 - (a) a question is decided by a majority of votes of the members present and voting; and
 - (b) the member presiding has a deliberative vote and, in the event of an equality of votes, also a casting vote.

13. Conduct at meetings

- (1) Subject to this Act, the Registration Board may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.
- (2) The Registration Board may permit members to participate in a particular meeting or all meetings by –
 - (a) telephone; or
 - (b) video conference; or
 - (c) any other means of communication approved by the Registration Board.

- (3) A member who participates in a meeting under a permission granted under subclause (2) is taken to be present at the meeting.
- (4) Without limiting subclause (1), the Registration Board may allow a person to attend a meeting for the purpose of advising or informing it on any matter.

14. Resolutions without meetings

- (1) If all members sign a document containing a statement that they are in favour of a resolution in the terms set out in the document, a resolution in those terms is taken to have been passed at a meeting of the Registration Board held on the day on which the document is signed or, if the members do not sign it on the same day, on the day on which the last of the members signs the document.
- (2) If a resolution is taken to have been passed under subclause (1), each member is to be –
 - (a) advised immediately of the matter; and
 - (b) given a copy of the terms of the resolution.
- (3) For the purposes of subclause (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members, is taken to constitute one document.

15. Disclosure of interests

(1) In this clause –

conflicting interest means a direct or indirect pecuniary interest or an interest prescribed by the regulations.

(2) If a member has a conflicting interest in a matter being, or about to be, considered by the Registration Board, the member must, as soon as reasonably practicable after the relevant facts come to the member's knowledge, disclose the nature of the conflicting interest to the Board.

Penalty: Fine not exceeding 50 penalty units.

(3) Unless the Registration Board otherwise determines, a member who has made a disclosure under subclause (2) in relation to a matter must not –

(a) be present during a deliberation of the Registration Board in relation to the matter; or

(b) take part in any decision of the Registration Board in relation to the matter.

(4) For the purpose of making a determination under subclause (3), the member to whom the determination relates must not –

(a) be present during any deliberation of the Registration Board for the purpose of making the determination; or

- (b) take part in making the determination.

16. Right of Registrar to attend meeting

- (1) The Registrar is entitled to attend all meetings of the Registration Board.
- (2) At a meeting of the Registration Board, the Registrar –
 - (a) is to provide information and advice as requested by the Registration Board; but
 - (b) otherwise may not participate in the meeting.
- (3) The Registrar may not vote at a meeting of the Registration Board.

17. Minutes

The Registration Board is to keep accurate minutes of its meetings.

18. General procedure

Except as provided by this Act, the Registration Board may regulate its own proceedings.

19. Presumptions

In any proceedings by or against the Registration Board, unless evidence is given to the contrary, proof is not required of –

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- (a) any resolution of the Registration Board;
and
- (b) the presence of a quorum at any meeting
of the Registration Board.

**SCHEDULE 3 – PROVISIONS WITH RESPECT TO
MEMBERSHIP AND SITTINGS OF REVIEW PANEL**
Section 234(3)

PART 1 – PRELIMINARY

1. Interpretation

In this Schedule –

chairperson means chairperson of the Review Panel;

member means a member of the Review Panel, including the chairperson.

PART 2 – MEMBERSHIP OF REVIEW PANEL

2. Term of office

A member is appointed until he or she has fulfilled all of his or her functions in relation to the review, of the application for a review of the determination of the Principal Officer, Non-attendance to make a Compulsory Schooling Order, in respect of which he or she was appointed.

3. Holding other office

The holder of an office who is required by the terms of his or her employment to devote the whole of his or her time to the duties of that office is not disqualified from –

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- (a) holding that office and also the office of a member; or
- (b) accepting any remuneration payable to a member.

4. *State Service Act 2000*

- (1) The *State Service Act 2000* does not apply in relation to a member in his or her capacity as a member.
- (2) A person may hold the office of member in conjunction with State Service employment.

5. Remuneration and conditions of appointment

- (1) A member is entitled to be paid such remuneration and allowances as the Minister determines.
- (2) A member who is a State Service officer or State Service employee is not entitled to remuneration or allowances under this clause except with the approval of the Minister administering the *State Service Act 2000*.
- (3) A member holds office on such conditions in relation to matters not provided for by this Act as are specified in the member's instrument of appointment.

6. Vacation of office

- (1) A member vacates office if the member –

- (a) dies; or
 - (b) resigns; or
 - (c) is removed from office under subclause (2).
- (2) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.

7. Filling of vacancies

If the office of the chairperson or another member becomes vacant, the Minister may appoint as the chairperson or another member a person listed on the register maintained under section 238 for the purposes of determining an application for a review of the determination of the Principal Officer, Non-attendance to make a Compulsory Schooling Order.

8. Validation of proceedings, &c.

- (1) An act or proceeding of the Review Panel or of a person acting under the direction of the Review Panel is not invalidated by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of a member.
- (2) All acts or proceedings of the Review Panel or of a person acting under the direction of the Review Panel are, despite any subsequent discovery of a defect in the appointment of a member or that any other person was

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disqualified from acting as, or capable of being, a member, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the Review Panel had been fully constituted.

9. Presumptions

In any proceeding by or against the Review Panel, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the Review Panel; or
- (b) the appointment of any member.

PART 3 – SITTINGS OF REVIEW PANEL

10. Sittings

The Review Panel is to sit at the times and places determined by the chairperson.

11. General principles

In conducting a review of a determination of the Principal Officer, Non-attendance to make a Compulsory Schooling Order, the Review Panel is to proceed with as little formality and as expeditiously as a proper consideration of the matter allows.

12. Privacy

Sittings and determinations of the Review Panel are not open to the public.

13. Voting

Questions for the determination of the Review Panel are to be determined by a majority of votes of the members present and voting.

14. Procedure of Review Panel

- (1) The Ministerial instructions may provide for matters relating to the regulation of the proceedings for the sittings of the Review Panel.
- (2) Except as otherwise provided by this Act and the Ministerial instructions, the Review Panel may regulate its own proceedings for sittings.

**SCHEDULE 4 – PROVISIONS WITH RESPECT TO
MEMBERSHIP AND MEETINGS OF TASMANIAN
HOME EDUCATION ADVISORY COUNCIL**

Section 241(9)

PART 1 – PRELIMINARY

1. Interpretation

In this Schedule –

chairperson means the chairperson of the
Tasmanian Home Education Advisory
Council;

member means a member of the Tasmanian
Home Education Advisory Council.

**PART 2 – MEMBERSHIP OF TASMANIAN HOME EDUCATION
ADVISORY COUNCIL**

2. Term of office

A member is appointed for a period, not
exceeding 3 years, specified in the member's
instrument of appointment and, if eligible, may
be reappointed.

3. Holding other office

The holder of an office who is required under the
terms of his or her employment to devote the
whole of his or her time to the duties of that
office is not disqualified from –

- (a) holding that office and also the office of a member; or
- (b) accepting any remuneration payable to a member.

4. *State Service Act 2000*

- (1) The *State Service Act 2000* does not apply in relation to a member in his or her capacity as a member.
- (2) A person may hold the office of member in conjunction with State Service employment.

5. Remuneration and conditions of appointment

- (1) A member is entitled to be paid such remuneration and allowances as the Minister determines.
- (2) A member who is a State Service officer or State Service employee is not entitled to remuneration or allowances under this clause except with the approval of the Minister administering the *State Service Act 2000*.
- (3) A member holds office on such conditions in relation to matters not provided for by this Act as are specified in the member's instrument of appointment.

6. Vacation of office

- (1) A member vacates office if the member –

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- (a) dies; or
 - (b) resigns; or
 - (c) is removed from office under subclause (2) or (3).
- (2) The Minister may remove a member from office if the member –
- (a) is absent from 3 consecutive meetings of the Tasmanian Home Education Advisory Council without the permission of the Council; or
 - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
 - (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for a term of 12 months or longer; or
 - (d) is convicted of an offence against this Act.
- (3) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.

7. Filling of vacancies

If the office of a member becomes vacant, the Minister may appoint a person to the vacant office for the remainder of that member's term of office.

8. Validation of proceedings, &c.

- (1) An act or proceeding of the Tasmanian Home Education Advisory Council or of a person acting under the direction of the Tasmanian Home Education Advisory Council is not invalidated by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of a member.
- (2) All acts or proceedings of the Tasmanian Home Education Advisory Council or of a person acting under the direction of the Tasmanian Home Education Advisory Council are, despite any subsequent discovery of a defect in the appointment of a member or that any other person was disqualified from acting as, or capable of being, a member, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the Tasmanian Home Education Advisory Council had been fully constituted.

9. Presumptions

In any proceedings by or against the Tasmanian Home Education Advisory Council, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the Tasmanian Home Education Advisory Council; or
- (b) the appointment of any member.

**PART 3 – MEETINGS OF TASMANIAN HOME EDUCATION
ADVISORY COUNCIL**

10. Convening of meetings

- (1) The chairperson, after giving each member reasonable notice of a meeting –
 - (a) may convene a meeting at any time; and
 - (b) must convene a meeting when requested to do so by 2 or more other members.
- (2) If the chairperson is absent from duty or otherwise unable to perform the duties of the office, a meeting may be convened, after reasonable notice of the meeting has been given of it, by –
 - (a) two or more other members; or
 - (b) a person authorised by the Tasmanian Home Education Advisory Council to do so.

- (3) For the purposes of subclauses (1) and (2), what constitutes reasonable notice is to be determined by the Tasmanian Home Education Advisory Council.

11. Presiding at meetings

- (1) The chairperson is to preside at all meetings of the Tasmanian Home Education Advisory Council at which he or she is present.
- (2) If the chairperson is not present at a meeting of the Tasmanian Home Education Advisory Council, a member elected by the members present at the meeting is to preside.

12. Quorum and voting at meetings

- (1) At a meeting of the Tasmanian Home Education Advisory Council, a quorum is constituted by a majority of the total number of members appointed.
- (2) A meeting of the Tasmanian Home Education Advisory Council at which a quorum is present is competent to transact any business of the Tasmanian Home Education Advisory Council.
- (3) At a meeting of the Tasmanian Home Education Advisory Council –
- (a) a question is decided by a majority of votes of the members present and voting;
and

- (b) the member presiding has a deliberative vote and, in the event of an equality of votes, also a casting vote.

13. Conduct of meetings

- (1) Subject to this Act, the Tasmanian Home Education Advisory Council may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.
- (2) The Tasmanian Home Education Advisory Council may permit members to participate in a particular meeting or all meetings by –
 - (a) telephone; or
 - (b) video conference; or
 - (c) any other means of communication approved by the Council.
- (3) A member who participates in a meeting under a permission granted under subclause (2) is taken to be present at the meeting.
- (4) Without limiting subclause (1), the Tasmanian Home Education Advisory Council may allow a person to attend a meeting for the purpose of advising or informing it on any matter.

14. Resolutions without meetings

- (1) If all members sign a document containing a statement that they are in favour of a resolution in the terms set out in the document, a resolution

in those terms is taken to have been passed at a meeting of the Tasmanian Home Education Advisory Council held on the day on which the document is signed or, if the members do not sign it on the same day, on the day on which the last of the members signs the document.

- (2) If a resolution is taken to have been passed under subclause (1), each member is to be –
 - (a) advised immediately of the matter; and
 - (b) given a copy of the terms of the resolution.
- (3) For the purposes of subclause (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members, is taken to constitute one document.

15. Right of Registrar to attend meeting

- (1) The Registrar is entitled to attend all meetings of the Tasmanian Home Education Advisory Council.
- (2) At a meeting of the Tasmanian Home Education Advisory Council, the Registrar –
 - (a) is to provide information and advice as requested by the Council; but
 - (b) otherwise may not participate in the meeting.

- (3) The Registrar may not vote at a meeting of the Tasmanian Home Education Advisory Council.

16. Minutes

- (1) The Tasmanian Home Education Advisory Council is to keep accurate minutes of its meetings.
- (2) Within 14 days after a meeting, the Tasmanian Home Education Advisory Council is to provide a copy of its minutes of the meeting to the Registrar.

17. General procedure

Except as provided by this Act, the Tasmanian Home Education Advisory Council may regulate its own proceedings.

18. Presumptions

In any proceedings by or against the Tasmanian Home Education Advisory Council, unless evidence is given to the contrary, proof is not required of –

- (a) any resolution of the Tasmanian Home Education Advisory Council; and
- (b) the presence of a quorum at any meeting of the Tasmanian Home Education Advisory Council.

**SCHEDULE 5 – SAVINGS AND TRANSITIONAL
PROVISIONS**

Section 261

PART 1 – PRELIMINARY

1. Interpretation

In this Schedule –

commencement day means 10 July 2017;

former Act means the *Education Act 1994*, as in force immediately before the commencement day;

participation record has the same meaning as in the *Youth Participation in Education and Training (Guaranteeing Futures) Act 2005* as in force immediately before the commencement day.

PART 2 – PRE-COMPULSORY EDUCATION

2. Pre-compulsory education

Despite the repeal of the former Act, section 46 of that Act continues to apply for the period commencing on the commencement day and ending on 31 December 2019.

PART 3 – COMPULSORY EDUCATION AND TRAINING

3. Exemption of school-aged child to be enrolled or home educated

If immediately before the commencement day a school-aged child, within the meaning of the former Act, is not required under section 4(1) of that Act to be enrolled at a school or provided with home education because he or she has been granted an exemption under section 5 of that Act, that exemption –

- (a) continues in force according to its terms; and
- (b) is taken to be an exemption granted under section 13 of this Act.

4. Part-time attendance

- (1) An application made, but not determined, under section 7(1) of the former Act before the commencement day is taken to be an application made under section 17(1) of this Act.
- (2) If before the commencement day a child has been permitted, under section 7(2) of the former Act, to attend school on a part-time basis, the child is taken to have been permitted under section 17(3) of this Act to attend school on a part-time basis on the same conditions.

5. Objection to participation in school activities

A notice provided under section 12(2) of the former Act to the principal of a school before the commencement day stating that a child is not to participate in a particular activity is taken to be a notice provided to the principal under section 39(2) of this Act.

6. Statement of Year 10 completion

If a child enrolled in a school opened a participation record during the 2016 calendar year, the child is taken to have been issued with a statement of Year 10 completion for the purposes of this Act.

7. Youth participation in approved learning program or home education

- (1) A participation record that has effect immediately before the commencement day is taken to be an approved learning program.
- (2) If a participation record relating to a child has effect immediately before the commencement day –
 - (a) the school principal is to provide that participation record, if held by him or her, to the Secretary; and
 - (b) if the participation record was prepared by the home educator parent of the child, that parent is to provide a copy of it to the Secretary –

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as soon as reasonably practicable after the commencement day.

- (3) If immediately before the commencement day a child was exempt or excused under the *Youth Participation in Education and Training (Guaranteeing Futures) Act 2005* from participating in an eligible option within the meaning of that Act, the child is exempt from participating in an approved learning program.
- (4) If before the commencement day a child had been granted a dispensation fully or partially excusing the child from participation in an eligible option, the child is exempt from participation in an approved learning program in accordance with, and to the extent specified in, the dispensation.
- (5) Until 1 January 2020 –
 - (a) the reference in section 24(1)(a) or (b) to attaining the age of 18 years is taken to be a reference to attaining the age of 17 years; and
 - (b) the reference in section 26(3) or (4) to full-time employment is taken to be employment for a total of not less than 25 hours each week.

PART 4 – HOME EDUCATION

8. Registration as home educator

- (1) In this clause –

home education support plan means a plan prepared by a home educator, within the meaning of the former Act, for the provision of home education to his or her child that has been approved by the Minister.

- (2) If immediately before the commencement day a parent of a child is registered under the former Act as a home educator of the child, the home education support plan being provided to the child immediately before the commencement day –
- (a) continues in force according to the terms of its approval by the Minister; and
 - (b) is taken to be an approved learning program.

**PART 5 – EDUCATION AND TRAINING AFTER SECONDARY
EDUCATION**

9. Entitlement to complete secondary education

If immediately before the commencement day a person is enrolled in a State school in accordance with his or her entitlement under section 47 of the former Act to attend a State school, the person is taken to have been enrolled under section 94 of this Act.

10. Attending State school after compulsory education

- (1) If the principal of a State school, before the commencement day, enrolls a person in the school under section 47A of the former Act, the principal is taken to have enrolled the person in the school under section 95 of this Act.
- (2) If a person makes an application to the principal of a State school under section 47A of the former Act before the commencement day but the principal has not determined the application before that day, the application is taken to have been made under section 95 of this Act.

11. Entitlement to attend TasTAFE

If immediately before the commencement day a person is enrolled in TasTAFE in accordance with his or her entitlement under section 47B of the former Act to attend a TasTAFE, the person is taken to have been enrolled under section 96 of this Act.

PART 6 – STATE SCHOOLS

12. Intake area

The intake area for a State school that –

- (a) was determined by the Minister under section 25(1)(a) of the former Act; and
- (b) was in force immediately before the commencement day –

is taken to be the intake area for that school until the Secretary determines an intake area for the school under section 99 of this Act.

13. Application of section 99

Nothing in section 99 affects the continuing enrolment of a child in a particular State school if the child is enrolled in that school before the commencement day.

14. School associations

(1) In this section –

existing school association means a school association that is in existence immediately before the commencement day.

(2) An existing school association –

(a) is continued; and

(b) is taken to be a school association established under section 110.

(3) If immediately before the commencement day an existing school association is incorporated under the *Associations Incorporation Act 1964*, the incorporation of the association under that Act is cancelled on the commencement day.

(4) If immediately before the commencement day the name of an existing school association does not contain the name of the school or the words

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“School Association”, the name of the association is taken to contain the name of the school and those words, as appropriate.

- (5) An existing school association is to develop a proposed new constitution and submit it to the Minister for approval under section 111 as soon as reasonably practicable after the commencement day.
- (6) The constitution of an existing school association continues in force –
 - (a) until the Minister approves a constitution for the association under section 111; or
 - (b) if no constitution has been so approved before the end of the 2016 school year, until the end of that school year; or
 - (c) if the Minister on the written application of the association approves a longer period for the development, submission and approval of the constitution under section 111, on the expiration of that period.
- (7) If the constitution for an existing school association continued under subclause (6) ceases to be in force before a constitution is approved under section 111, the model constitution published under that section is taken to be the constitution for the association until a constitution is approved under that section.

15. Expulsions

For the avoidance of doubt, the repeal of the former Act does not affect an expulsion of a student from a State school, or the prohibition of a student from enrolling in any State school, under section 38(2) of the former Act.

16. Discipline instructions

Until the Secretary makes Secretary's instructions in relation to the matters specified in section 128(1)(a) and (b), any instructions issued to principals of State schools under section 39 of the former Act in relation to those matters continue in effect.

17. Fees, levies and charges

If immediately before the commencement day a fee, levy or charge imposed under section 41 of the former Act had not been paid, the fee, levy or charge is a debt due and owing and may be recovered by the Crown in a court of competent jurisdiction.

18. Lease, hire or loan of property, facilities, equipment and material

If immediately before the commencement day a contract or arrangement under section 42, 43 or 45 of the former Act for the lease, hire or loan of any property, facilities, equipment, teaching aids or materials was in effect, that contract or arrangement continues according to its terms and

on the same conditions and is taken to have been entered into under section 140, 141 or 142, as appropriate.

PART 7 – REGISTERED SCHOOLS

19. Registration of school continues

If a school, immediately before the commencement day, was registered under Division 2 of Part 5 of the former Act –

- (a) that school is taken to be a registered individual school registered under this Act on the same terms and conditions and for the period specified in the school’s certificate of registration issued under the former Act; and
- (b) that certificate of registration is taken to have been issued under section 177 of this Act.

20. Reviews and inspections

- (1) In this clause –

former Board means the Registration Board, within the meaning of the former Act;

prescribed inspection means an inspection referred to in section 56 of the former Act;

prescribed review means a review referred to in section 55 of the former Act;

uncompleted inspection means a prescribed inspection that has been commenced, but not completed, under the former Act before the commencement day;

uncompleted review means a prescribed review that has been commenced, but not completed, under the former Act before the commencement day.

- (2) If a prescribed review is carried out and completed (including the completion of a report on the prescribed review) in relation to a registered school, within the meaning of the former Act, before the commencement day –
- (a) the Registration Board may determine, in writing, that the prescribed review is to be taken to be –
 - (i) a registration review carried out under this Act for the purposes of the renewal of the registration of that school (but may make such a determination only if an application for the renewal of the registration of that school has been made under the former Act before the commencement day); or
 - (ii) a registration inspection of that school; and

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- (b) if the Registration Board makes such a determination, the prescribed review is to be taken to be a registration review or registration inspection, as so determined by the Registration Board.
- (3) If a prescribed inspection is carried out and completed (including the completion of a report on the prescribed inspection) in relation to a registered school, within the meaning of the former Act, before the commencement day –
 - (a) the Registration Board may determine, in writing, that the prescribed inspection is to be taken to be –
 - (i) a registration inspection of that school; or
 - (ii) a registration review carried out under this Act for the purposes of the renewal of the registration of that school (but may make such a determination only if an application for the renewal of the registration of that school has been made under the former Act before the commencement day); and
 - (b) if the Registration Board makes such a determination, the prescribed review is to be taken to be a registration inspection or registration review, as so determined by the Registration Board.

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- (4) If the Registration Board makes a determination under subclause (2) or (3) –
- (a) the report on the prescribed review or prescribed inspection is taken to have been prepared by a registration officer for the purpose of allowing the Registrar to make a report under section 172 or 188, as determined by the Registration Board in writing; and
 - (b) the prescribed review or prescribed inspection and that report may, but need not, be taken into account by the Registration Board when considering whether to –
 - (i) grant an application for the renewal of the registration of the school that was made under the former Act before the commencement day; or
 - (ii) suspend or cancel the registration of the school, as a registered system school or registered individual school, under section 161, 162, 178 or 179; and
 - (c) when considering an application for the renewal of the registration of the school made under the former Act before the commencement day, the Registration Board is not bound to comply with section 172(1) if it takes the prescribed review or prescribed inspection and that

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report into account, but may comply with that section if it considers it appropriate.

- (5) If before the commencement day an uncompleted review or uncompleted inspection is being carried out in relation to a registered school, within the meaning of the former Act, and an application for the renewal of the registration of that school has been lodged, but not determined, under the former Act, the uncompleted review or uncompleted inspection is taken to be a registration review requested by the Registration Board under section 182 of this Act in relation to that school and is to be continued as such.
- (6) If before the commencement day an uncompleted review or uncompleted inspection is being carried out in relation to a registered school, within the meaning of the former Act, but an application for the renewal of the registration of that school has not been lodged under the former Act, the uncompleted review is taken to be a registration inspection requested by the Registration Board under section 186 of this Act in relation to that school and may be continued as such.
- (7) If, before the commencement day –
 - (a) the former Board arranged for a prescribed review or prescribed inspection to be carried out in relation to a registered school, within the meaning of the former Act, but the prescribed

review or prescribed inspection has not been commenced; and

- (b) an application for the renewal of the registration of that school has been lodged, but not determined, under the former Act –

the arrangement is taken to be a request by the Registration Board, made under section 182 to the Registrar, for a registration review in relation to that school.

21. Grants

- (1) In this clause –

existing additional grant means an additional grant made under section 65B of the former Act that is in force immediately before the commencement day;

existing grant means a grant granted or made under section 64 of the former Act that is in force immediately before the commencement day.

- (2) An existing grant is taken to be a grant made under section 203 and this Act applies in relation to it.
- (3) An existing additional grant is taken to be an additional grant made under section 206 and this Act applies in relation to it.

22. Subsidies

(1) In this clause –

subsidy means a subsidy granted or renewed under section 66 or 67 of the former Act that is in force immediately before the commencement day.

(2) A subsidy continues in force for the same term and on the same conditions as were applicable immediately before the commencement day.

(3) Despite the repeal of the former Act, Division 3 of Part 5 of the former Act, other than section 67, continues to apply to a subsidy.

PART 8 – EMPLOYEES, OFFICE HOLDERS AND BODIES

Division 1 – Employees

23. Principals of registered schools

(1) If immediately before the commencement day the principal of a registered school, within the meaning of the former Act, does not have the qualifications required by section 199 of this Act and, under his or her instrument of appointment as in force immediately before the commencement day (the *original appointment*), the appointment as principal is for a term that would continue past the commencement day, the principal may continue as principal of that school without those qualifications until the end of his or her term of appointment.

- (2) For the purposes of subclause (1), the appointment of a principal ends –
- (a) if the original appointment does not allow for its renewal, at the end of the term of the appointment; or
 - (b) if the original appointment allows for its renewal and it is renewed (however many times after the commencement day), at the end of the term of the renewed appointment last entered into.

24. Employees generally

A person who was appointed or employed under the *State Service Act 2000* for the purposes of the former Act and holds that appointment or employment immediately before the commencement day is taken to have been appointed or employed for the purposes of this Act.

25. Authorised persons

- (1) A person who immediately before the commencement day is authorised, under section 14(1) of the former Act, to investigate any unauthorised absence of a school-aged child, within the meaning of that Act, is taken to be a person authorised under section 40(2) of this Act to investigate the absence of a school-aged child or youth from a State school or an approved learning program.

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- (2) An identity card issued to a person under section 14(2) of the former Act is taken to be an identity card issued by the Secretary under section 40(5) of this Act.
- (3) A person who immediately before the commencement day is carrying out a review, within the meaning of the former Act, as directed under section 55 of the former Act, is taken to be registration officer for the purposes of that review.
- (4) If an identity card or other document of authority is issued to a person referred to in subclause (3) under the former Act, it is taken to be an identity card issued under section 228(2).
- (5) A person who immediately before the commencement day is authorised, under section 56 of the former Act, to carry out inspections of registered schools, within the meaning of that Act, is taken to be a registration officer.
- (6) A certificate of authority issued to a person referred to in subclause (5) under section 57 of the former Act for the purposes of carrying out inspections of registered schools, within the meaning of that Act, is taken to be an identity card issued under section 228(2).
- (7) The authorisation of a person under section 71 of the former Act for the purposes of that section is revoked.

Division 2 – Former Advisory Council

26. Former Advisory Council

(1) In this clause –

former Advisory Council means the Tasmanian Home Education Advisory Council established by the Minister under section 83 of the former Act in relation to advising him or her on home education matters under that Act, as constituted and in force immediately before the commencement day;

Tasmanian Home Education Advisory Council means the Tasmanian Home Education Advisory Council established by section 241.

- (2) The former Advisory Council is continued as the Tasmanian Home Education Advisory Council.
- (3) The appointment of each member of the former Advisory Council holding office immediately before the commencement day continues as an appointment to the Tasmanian Home Education Advisory Council for the term, and according to the terms, of the appointment.

Division 3 – Former Registration Board

27. Former Registration Board

(1) In this clause –

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former Registration Board means the Registration Board, within the meaning of the former Act, as constituted and in force immediately before the commencement day;

Non-government Schools Registration Board means the Non-government Schools Registration Board established by section 229.

- (2) The former Registration Board is continued as the Non-government Schools Registration Board.
- (3) The appointment of each member of the former Registration Board holding office immediately before the commencement day continues as an appointment to the Non-government Schools Registration Board for the term, and according to the terms, of the appointment.

28. Legal proceedings

- (1) In this clause –

former Registration Board means the Registration Board, within the meaning of the former Act, as constituted and in force immediately before the commencement day;

Non-government Schools Registration Board means the Non-government Schools Registration Board established by section 229.

- (2) A legal proceeding that is instituted by or against the former Registration Board and is pending immediately before the commencement day may be continued by or against the Non-government Schools Registration Board.
- (3) A legal proceeding that could have been instituted by or against the former Registration Board to enforce a right that had accrued, and was in existence, immediately before the commencement day may be instituted by or against the Non-government Schools Registration Board.
- (4) A judgement or order of a court obtained by or against the former Registration Board before the commencement day may be enforced by or against the Non-government Schools Registration Board.

PART 9 – TASMANIAN ACADEMY

29. Interpretation of Part

In this Part –

Academy Act means the *Education and Training (Tasmanian Academy) Act 2008* as in force immediately before the commencement day;

Tasmanian Academy means the Tasmanian Academy continued under section 5 of the Academy Act.

30. Tasmanian Academy and colleges

- (1) The Tasmanian Academy as in existence immediately before the commencement day is abolished.
- (2) Each of the colleges of the Tasmanian Academy established under section 12 of the Academy Act and in existence immediately before the commencement day is taken to be a State school established under section 97 with the same name.
- (3) Subclause (2) does not affect the appointment of the principal or any other member of staff of a college.

31. Academy association

- (1) In this clause –

Academy association has the same meaning as in the Academy Act.
- (2) The Academy association is abolished.
- (3) The appointment of each member of the Academy association is revoked.
- (4) A member of the Academy association is not entitled to receive any benefit in respect of the termination of his or her appointment as such a member.

32. Fees, levies and charges

If immediately before the commencement day a fee, levy or charge imposed under section 33 of the Academy Act had not been paid, the fee, levy or charge is a debt due and owing and may be recovered by the Crown in a court of competent jurisdiction.

33. Lease or hire of property, facilities, materials and equipment

If immediately before the commencement day a contract or arrangement under section 15 or 16 of the Academy Act for the lease or hire of any property, facilities, materials or equipment was in effect, that contract or arrangement continues according to its terms and on the same conditions and is taken to have been entered into under section 140, 141 or 142, as appropriate.

34. College associations

(1) In this section –

existing college association means a college association, within the meaning of the Academy Act, that is in existence immediately before the commencement day.

(2) An existing college association –

(a) is continued; and

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- (b) is taken to be a school association established under section 110.
- (3) If immediately before the commencement day an existing college association is incorporated under the *Associations Incorporation Act 1964*, the incorporation of the association under that Act is cancelled on the commencement day.
- (4) If immediately before the commencement day the name of an existing college association does not contain the name of the college or the words “College Association”, the name of the association is taken to contain the name of the college and those words, as appropriate.
- (5) An existing college association is to develop a proposed new constitution and submit it to the Minister for approval under section 111 as soon as reasonably practicable after the commencement day.
- (6) The constitution of an existing college association continues in force –
 - (a) until the Minister approves a constitution for the association under section 111; or
 - (b) if no constitution has been so approved before the end of the 2016 school year, until the end of that school year; or
 - (c) if the Minister on the written application of the association approves a longer period for the development, submission and approval of the constitution under

section 111, on the expiration of that period.

- (7) If the constitution for an existing college association continued under subclause (6) ceases to be in force before a constitution is approved under section 111, the model constitution published under that section is taken to be the constitution for the association until a constitution is approved under that section.

PART 10 – MISCELLANEOUS

35. Financial assistance

- (1) If before the commencement day the Secretary, under section 81 of the former Act, grants financial assistance in relation to a student at a State school in respect of the year 2017 but that financial assistance, or the whole of that financial assistance, has not been paid before that day, that financial assistance is taken to have been granted under section 246 of this Act.
- (2) If before the commencement day an application under section 81 of the former Act for financial assistance in respect of the year 2017 is made in relation to a student at a State school but that application has not been determined before that day, that application is taken to have been made under section 246 of this Act.

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SCHEDULE 6 – LEGISLATION REPEALED

Section 262

Education Act 1994 (No. 86 of 1994)

Youth Participation in Education and Training (Guaranteeing Futures) Act 2005 (No. 13 of 2005)

Education and Training (Tasmanian Academy) Act 2008 (No. 42 of 2008)

Education and Training (Repeals and Transitional Provisions) Act 2008 (No. 43 of 2008)

Education and Training (Transitional Provisions) Act 2010 (No. 24 of 2010)

SCHEDULE 7 – LEGISLATION RESCINDED

Section 263

Education and Training (Tasmanian Academy) Regulations
2011 (No. 3 of 2011)

Education Regulations 2015 (No. 40 of 2015)

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SCHEDULE 8 – LEGISLATION REVOKED

Section 264

*Proclamation under the Education Amendment Act 2003 (No.
185 of 2003)*