

# EDUCATION (GENERAL PROVISIONS) ACT

No. 30 of 1989

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Queensland



ANNO TRICESIMO OCTAVO

ELIZABETHAE SECUNDAE REGINAE

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No. 30 of 1989

**An Act to consolidate and amend the law relating to education to amend the Education Act 1964-1988 in certain particulars to amend the University of Queensland Act 1965-1987 in a certain particular to repeal the Education Act and Another Act Amendment Act 1987 and for related purposes**

[ASSENTED TO 28TH APRIL, 1989]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

**1. Short title.** This Act may be cited as the *Education (General Provisions) Act 1989*.

**2. Commencement.** (1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act or the provisions thereof specified in the Proclamation shall commence on the day or days appointed by Proclamation for the commencement of this Act or, as the case may be, those provisions.

**3. Interpretation.** (1) In this Act, unless the contrary intention appears—

“age of compulsory attendance” means not less than six nor more than 15 years of age;

“association” means a parents and citizens association formed under this Act and includes an interim parents and citizens association;

“company” includes for the purposes of sections 4 (1) (d), 63, 65 and 66, a corporation within the meaning of the *Companies (Queensland) Code*, and a partnership;

“Corporation” means the corporation sole preserved, continued in existence and constituted under this Act by the Minister for the time being by the name of “The Minister for Education of Queensland”;

“Department” means the Department of Education;

“Director-General” means the Director-General of Education;

“disabled person” means a person who is a disabled person in accordance with subsection (3);

“distance education” means education provided where students and teachers are not regularly in the presence of each other for that purpose but communicate with each other in writing, by print or by electronic means or other like means;

“Education Office Gazette” means the official circular of the Department of Education;

“materials” means any publication, written document, computer software, video, sound recording, film, photograph or other like works;

“Minister” includes any Minister of the Crown for the time being performing the duties of the Minister;

“non-State school” means a school that is a non-State school in accordance with subsection (2);

- “parent” includes a guardian and every person who is liable to maintain or has the actual custody of a child;
- “preschool education” means educational programs, appropriate to the needs of children below the age of compulsory attendance and prior to enrolment in year numbered 1, that are provided in conjunction with a primary school;
- “president” means the president of an association;
- “primary education” means education offered in years numbered 1 to 7, both inclusive;
- “primary school” means a school, not being a special school, providing primary education;
- “principal” means the person in charge of a school;
- “regional director” means a regional director of education;
- “school day” means any day on which a school is operating as a school;
- “school hours” means the hours during which a school is open as a school;
- “secondary education” means education offered in years numbered 8 to 12, both inclusive;
- “secondary school” means a school, not being a special school, providing secondary education;
- “services” means any performance of functions, doing of work, work done, or other activities, or whatever is necessary to provide assistance and advice;
- “special education” means educational programs and services appropriate to the needs of a disabled person that are additional to or otherwise different from educational programs generally available to persons of that age who are not disabled persons;
- “special school” means a school providing special education;
- “State educational institution” means any educational institution established pursuant to section 13, 14, 15, 16 or 17;
- “State preschool centre” means premises or that part of premises at which preschool education is provided by the State;
- “State school” means a preschool centre, primary school, secondary school or special school or such other means of providing educational instruction as are established by the Minister;
- “student” means a person who is a student in accordance with subsection (4).

(2) A school, not being a State school, that provides, in the opinion of the Minister, facilities for and instruction in preschool, primary, secondary or special education in accordance with guidelines prescribed by Order in Council, is a non-State school for the purposes of this Act.

(3) A person who has not attained the age of 18 years and who, in the opinion of the Minister, is unlikely to attain those levels of

development of which he is capable unless he receives special education, is a disabled person for the purposes of this Act.

(4) A person enrolled in a school or enrolled or registered in any other educational institution, or a person who, in the opinion of the Minister, is a student, is a student for the purposes of this Act.

## PART II—CORPORATION OF THE MINISTER AND GENERAL POWERS OF THE MINISTER

### *Division 1—Continuation of Corporation Sole*

**4. The Corporation of the Minister.** (1) The corporation sole by the name of “The Minister for Education of Queensland” constituted under the *Education Act 1964-1988* is hereby preserved, continued in existence, and constituted under this Act under that name and the Minister, including successively any and every Minister for the time being administering this Act, shall be such corporation sole by such name, and by such name shall have perpetual succession and an official seal, and shall be capable in law of—

- (a) suing and being sued in his corporate name;
- (b) subject to and for the purposes of this Act, acquiring, holding, taking on lease, leasing, exchanging and disposing of property, real and personal, movable and immovable (whether situated in Queensland or elsewhere);
- (c) accepting gifts, grants, bequests or devises and creating and administering trust funds;
- (d) causing the formation of companies, and becoming a member of or managing any company or companies for any purpose which may seem directly or indirectly calculated to further education in any way whatsoever;
- (e) forming or establishing or participating in the forming or establishing of any association, trust or other such arrangement for any purposes which may seem directly or indirectly calculated to further education in any way whatsoever;
- (f) doing and suffering all such other acts, matters and things as bodies corporate may in law do and suffer.

(2) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Corporation affixed to any document or writing whatsoever, and, until the contrary is proved, shall presume that such seal was duly so affixed.

**5. Agreements on use of premises.** Notwithstanding anything contained in this Act or any other Act or law or rule of law to the contrary, the Corporation is empowered and it is hereby declared always has had such power, to enter into an agreement or agreements, with a view to allowing the use of premises controlled by it (with or without payment of rental or fee) for such purposes as it considers are for the benefit of the community.

*Division 2—General Powers of Minister*

**6. Power of Minister to be member of committees, etc.** (1) The Minister, or a person authorized by him for that purpose, may by prior invitation from or agreement with a committee, council, group or body—

(a) become and be a member of any committee, council, group or body, whether incorporated or not, that—

(i) has among its objects education or research or any other matter associated with the process of learning or teaching; or

(ii) in the opinion of the Minister, is engaged in the furtherance of education;

and

(b) enter into an agreement with any such committee, council, group or body in respect of any of those objects.

(2) It is hereby declared that the Minister or a person authorized by him for that purpose who exercised any power specified in subsection (1) prior to the commencement of this section always did have the power in question and all acts, agreements and payments made or entered into for those purposes shall have full force and effect.

(3) Where pursuant to subsection (1) (a) the Minister is a member of any committee, council, group or body, the Minister may be a member of the directorate or other governing body of that committee, council, group or body.

(4) The Minister may incur any liability and may pay such contributions as membership of a committee, council, group or body, pursuant to subsection (1), entails.

**7. Production and sale of educational materials, etc.** (1) The Minister is authorized to produce and sell educational materials and sell services and to enter into an agreement with any person for those purposes and it is declared always has had those powers.

(2) Nothing in subsection (1) shall be construed as conferring authority on the Minister to prescribe the use of any material or service produced pursuant to this section other than in a State educational institution.

**8. Power of Minister to exploit commercially, certain facilities and resources.** The Minister is authorized to exploit commercially any facility or resource, including any study, research or knowledge, or the practical application thereof, developed by or within the Department whether alone or in conjunction with any other person or body.

**9. Appointment of advisory committees.** The Minister may from time to time establish such committees as he thinks fit to advise him on any aspect of education.

**10. Power of delegation by Minister.** (1) The Minister may, either generally or otherwise as provided by the instrument of delegation, by writing signed by him, delegate—

- (a) to any person;
- (b) to the holder of an office specifying its title but not the name of the holder for the time being,

all or any of his powers, authorities, functions or duties under this Act except this power of delegation, and the powers, authorities, functions or duties assigned to him under sections 3 (2), 6 (1) (a) (ii), 58 (2) (a), 58 (2) (e), 75 (1), 75 (6) and 76 (1).

(2) A power, authority, function or duty so delegated, if exercised or performed by the delegate, shall be exercised or performed in accordance with the instrument of delegation.

(3) A delegation may be made subject to such terms or limitations as the Minister thinks fit including a requirement that the delegate shall report to him upon the exercise or performance of the delegated power, authority, function or duty.

(4) The Minister may make such and so many delegations of the same power, authority, function or duty and to such number of persons or holders of office as he considers necessary or desirable.

(5) A delegation is revocable at the will of the Minister and does not prevent the exercise of a power or authority or the performance of a function or duty by him.

**11. Imposition, collection and disposal of fees, etc., and other moneys.** (1) The Minister, in accordance with regulations made in that behalf, may impose and collect such fees and charges as he may deem appropriate for the purposes of this Act.

(2) Subject to the provisions of the *Financial Administration and Audit Act 1977-1988*, all fees and other moneys received under the authority of this Act shall be disposed of for the purposes of this Act in such manner as the Minister shall direct or as may be otherwise prescribed in this Act.

### PART III—STATE EDUCATIONAL INSTITUTIONS

#### *Division 1—State Education*

**12. Provision of State education.** (1) For every student attending a State educational institution established pursuant to section 13, 14 or 17, there shall be provided a program of instruction in such subjects and of such duration as the Minister approves that—

- (a) has regard to the age, ability, aptitude and development of the student concerned;
- (b) is an integral element within the total range of educational services offered with the approval of the Minister first had and obtained;
- (c) takes account and promotes continuity of the student's learning experiences;
- (d) recognizes and takes account of the nature of knowledge;
- (e) has regard to whether enrolment is compulsory or non-compulsory.

(2) Special education may be provided or contributed to by the Minister for every disabled person who is of the age of compulsory attendance and who is enrolled in a non-State school or is receiving instruction by any other means whatsoever approved by the Minister for the purpose.

(3) Where special education is provided or contributed to by the Minister to a disabled person pursuant to subsection (2), it shall be the duty of the governing body or person in charge of the non-State school or means of instruction to report to the Minister, at such times and in such manner and containing such particulars as required by the Minister, on the special education provided at that school or by that means.

(4) Subject to the agreement of the parent of a disabled person who is not of the age of compulsory attendance, special education may be provided to that person in a manner provided for in subsection (1) or (2).

*Division 2—General Provisions Relating to State Educational Institutions*

**13. Power to continue and establish State schools.** (1) All State schools established before the commencement of this section and subsisting immediately prior to the commencement of this section under the control of the Department, are deemed to be State schools established under this Act.

(2) The Minister may—

- (a) continue, maintain and carry on, in accordance with the provisions of this Act, State schools deemed to be established under this Act;
- (b) establish, maintain and carry on such additional number of State schools as he considers necessary or convenient for public education and for the purposes of this Act.

**14. Power to continue and establish other means of educational instruction.** (1) All means of educational instruction, not including State schools, established before the commencement of this section and subsisting immediately prior to the commencement of this section under the control of the Department, are deemed to be other means of educational instruction established under this Act.

(2) The Minister may—

- (a) continue, maintain and carry on, in accordance with the provisions of this Act, other means of educational instruction deemed to be established under this Act;
- (b) establish, maintain and carry on such other means of educational instruction as he considers necessary or convenient for the purposes of this Act, including but not limited to—
  - (i) field study centres;
  - (ii) outdoor education centres;
  - (iii) centres for continuing secondary education.

**15. Power to continue and establish centres for teachers and other Departmental officers.** (1) All centres for the support and development of teachers and other officers of the Department established before the commencement of this section and subsisting immediately prior to the commencement of this section under the control of the Department, are deemed to have been duly authorized and established as such under this Act.

(2) The Governor in Council may, from time to time by Order in Council, authorize the Minister to establish, maintain and carry on such centres for the support and development of teachers and other officers of the Department as the Minister considers necessary or convenient for the purposes of this Act, and such Order in Council shall take effect according to its tenor.

(3) The Minister may continue, maintain and carry on in accordance with the provisions of this Act any centre for the support and development of teachers and other officers of the Department deemed to be established under this Act.

(4) The Minister is empowered at his discretion, and it is hereby declared always has had such power, to provide resources for any centre, group, association, body or institution the objects of which are to provide for the support and development of teachers and other officers of the Department.

(5) The Governor in Council may in the Order in Council establishing a centre, or by a subsequent Order in Council—

- (a) assign to the centre a name or title;
- (b) declare at what place the centre shall be situated;
- (c) specify the provisions applicable to and in relation to the centre which provisions shall be binding upon all persons in relation to that centre and which may include—
  - (i) the terms and conditions or such other matter or thing as may be necessary or desirable, including fees and charges, if any, on which the Minister may establish, maintain or conduct any such centre;
  - (ii) the powers, authorities, duties and functions which the Minister may exercise and perform in respect of the centre;
  - (iii) the general arrangements for the management, supervision and control of the centre including if necessary the constitution of an advisory council in respect thereof and the membership of such council;
- (iv) subject to the provisions of the *Financial Administration and Audit Act 1977-1988*, the financial arrangements for or in respect of the establishment or maintenance of, or both the establishment and maintenance of, the centre;
- (v) generally such other matters or things as may be necessary or desirable in order to carry out in respect of the centre the purposes of this section,

and such Order in Council shall take effect according to its tenor.

**16. Power to establish and maintain student hostels and student residential colleges.** (1) The Minister may, subject to this Act, and subject to the approval of the Governor in Council, establish and maintain any student hostel or student residential college (whether of a like nature or not) as the Minister considers necessary or desirable for the purposes of this Act.

(2) The Governor in Council may in the Order in Council establishing a student hostel or student residential college, or by a subsequent Order in Council—

- (a) assign to the hostel or college a name or title;
- (b) declare at what place the hostel or college shall be situated;
- (c) specify the provisions applicable to and in relation to the hostel or college which provisions shall be binding upon all persons in relation to that hostel or college and which may include—
  - (i) the terms and conditions or such other matter or thing as may be necessary or desirable, including fees and charges, if any, on which the Minister may establish, maintain or conduct any such hostel or college;
  - (ii) the powers, authorities, duties and functions which the Minister may exercise and perform in respect of the hostel or college;
  - (iii) the general arrangements for the management, supervision and control of the hostel or college including if necessary the constitution of an advisory council in respect thereof and the membership of such council;
  - (iv) subject to the provisions of the *Financial Administration and Audit Act 1977-1988*, the financial arrangements for or in respect of the establishment or maintenance of, or both the establishment and maintenance of, the hostel or college;
  - (v) generally such other matters or things as may be necessary or desirable in order to carry out in respect of the hostel or college the purposes of this section,

and such Order in Council shall take effect according to its tenor.

**17. Power to establish and maintain other State educational institutions.** (1) The Governor in Council may, from time to time by Order in Council, authorize the Minister to establish and maintain such other State educational institutions as the Minister considers necessary or desirable for the purposes of this Act.

(2) The Governor in Council may in the Order in Council establishing a State educational institution, or by a subsequent Order in Council—

- (a) assign to the educational institution a name or title;
- (b) declare at what place the educational institution shall be situated;
- (c) specify the provisions applicable to and in relation to the educational institution which provisions shall be binding upon all persons in relation to that institution and which may include—
  - (i) the terms and conditions or such other matter or thing as may be necessary or desirable, including fees and charges, if any, on which the Minister may establish, maintain or conduct any such educational institution;
  - (ii) the powers, authorities, duties and functions which the Minister may exercise and perform in respect of the educational institution;
  - (iii) the general arrangements for the local management, supervision and control of the educational institution including if necessary the constitution of an advisory council in respect thereof and the membership of such council;
  - (iv) subject to the provisions of the *Financial Administration and Audit Act 1977-1988*, the financial arrangements for or in respect of the establishment or maintenance of, or both the establishment and maintenance of, the educational institution;
  - (v) generally such other matters or things as may be necessary or desirable in order to carry out in respect of the educational institution the purposes of this section,

and such Order in Council shall take effect according to its tenor.

**18. Curricula for State educational institutions.** (1) The Minister is authorized to do all things considered by him to be necessary to develop, review, maintain and implement curricula taught or to be taught in State educational institutions.

(2) Nothing in subsection (1) shall be construed as conferring authority on the Minister to prescribe the use of any curriculum developed or maintained pursuant to this section other than in a State educational institution.

(3) It is hereby declared that the Minister or a person authorized by him for that purpose who exercised any power specified in subsection (1) prior to the commencement of this section always did have the power in question and all acts, undertakings or agreements made or entered into for those purposes shall have full force and effect.

**19. Use of State educational institutions.** (1) Notwithstanding anything contained in this or any other Act or law that the land in

question is reserved for a particular purpose, the Minister or an officer, or a class of officer so authorized by the Minister, may give permission (and it is hereby declared always has had such power) for the premises of a State educational institution to be used for any purpose (including a purpose not connected with education), subject to such conditions and fees, if any, as may be prescribed by the regulations.

(2) Any permission given under subsection (1) and any agreement entered into in fulfilment of any condition subject to which the permission is given shall be of full force and effect notwithstanding anything to the contrary in any Act or law relating to Crown lands or lands reserved and set apart for any purpose.

**20. Inspection of State educational institutions.** The Minister shall cause every State educational institution to be inspected at such intervals and in such manner as appear to him to be appropriate.

**21. Investigation of complaint.** The Director-General or his delegate in that behalf shall investigate expeditiously any complaint, which in the opinion of the Director-General is not a frivolous or vexatious complaint, in connexion with the administration, management and operation of a State educational institution.

**22. State educational institutions may be discontinued.** (1) Subject to subsection (2), any State educational institution may be discontinued and the property, facilities and other assets used in connexion therewith sold or otherwise disposed of.

(2) Any such institution established with the approval of the Governor in Council may be discontinued only by the Governor in Council.

**23. Instruction to be free.** In State schools, the cost of instruction of children whose parents are domiciled in the State shall be defrayed by the State.

**24. Suspension from attendance.** (1) In this section, "suspend" means debar from attending a State educational institution for a period of time as specified pursuant to this section.

(2) A principal or other person in charge of a State educational institution may suspend a student from that State educational institution for a period nominated by him up to and including five days, but immediately on so doing he shall notify the regional director for the region in question and the student himself or, if the student is under the age of 18 years, a parent of the student, of his action and his reasons therefor.

(3) If the principal or other person in charge of a State educational institution is of the opinion that a student should be excluded for a period exceeding five days, he shall include with his advice to the regional director of the region in question pursuant to subsection (2) a recommendation to that effect and reasons therefor.

(4) The regional director shall consider expeditiously the circumstances of the case and—

- (a) if he is of the opinion that the student should be suspended for the nominated period, he shall notify the principal or other person in charge accordingly, in which case the student shall remain suspended for that period;
- (b) if he is of the opinion that the student should no longer be suspended from the State educational institution, he shall notify the principal or other person in charge accordingly, in which case the student shall no longer be so suspended;
- (c) if he is of the opinion that the student should be excluded from the State educational institution pursuant to section 25, he—
  - (i) shall notify the Director-General promptly of his opinion and therein set out the circumstances in respect of the matter in question;  
and
  - (ii) may extend the period of suspension until a determination has been made pursuant to section 25 and, immediately notify the principal or other person in charge and the student himself or, if the student is under the age of 18 years, a parent of the student, of his action and his reasons therefor in which case the student shall be suspended for that period.

(5) The student or his parent, as the case may be, may upon receipt of or being made aware of a notification of his or his child's suspension make a submission to the regional director setting out the reasons why the student should not be so suspended.

(6) The regional director shall consider any such submission and may—

- (a) confirm the suspension and the period thereof;
- (b) remove the order for suspension;
- or
- (c) confirm the suspension but vary the period thereof.

**25. Exclusion from attendance.** (1) In this section, "exclusion" means prohibition from attendance at a State educational institution for a period determined by the Director-General with the approval of the Minister first had and obtained.

(2) The Director-General shall consider expeditiously the circumstances of a case of exclusion and, with the approval of the Minister, may order the exclusion of a student—

- (a) for a period determined by him;
- or
- (b) permanently,

when he is satisfied that the student is guilty of disobedience, misconduct

or other conduct prejudicial to the good order and discipline of the State educational institution.

(3) Immediately on ordering such exclusion, the Director-General shall notify the principal or other person in charge and the student himself or, if the student is under the age of 18 years, a parent of the student, of his action and his reasons therefor.

(4) The student or his parent, as the case may be, may upon receipt of or being made aware of an order in respect of such exclusion make a submission to the Director-General setting out the reasons why the student should not be so excluded.

(5) The Director-General shall consider any such submission and, with the approval of the Minister, may—

(a) confirm the exclusion and the period thereof;

(b) remove the order for exclusion;

or

(c) confirm the exclusion but vary the period thereof.

**26. Wilful disturbance.** (1) Any person who wilfully disturbs the management or operation of any State educational institution or who upbraids, insults or abuses any teacher, teacher on probation, teacher in training, staff member or person employed in any capacity at any such educational institution in the presence or hearing of any student who is at the time in question—

(a) in or about the educational institution;

or

(b) assembled with others for educational purposes at or in any place,

commits an offence against this Act.

Penalty: Four penalty units.

(2) A person shall not be convicted of an offence against this section if it is shown that he was, at the time in question, a student at the State educational institution concerned.

**27. Trespass.** Save where he has lawful authority or excuse, a person who is on the premises of any State educational institution commits an offence against this Act.

Penalty: Four penalty units.

### *Division 3—General Provisions Relating to State Schools*

**28. School records and reports.** (1) The principal of a State school shall keep or cause to be kept such school records and reports as are prescribed by the regulations and shall be responsible for the punctual preparation and dispatch to the Director-General or to a person authorized by the Director-General of such returns as are prescribed by the regulations.

(2) A person, whether he is an officer of the Department or not, who fails to preserve and aid in preserving secrecy with regard to all confidential matters concerning any student contained in school records and in the records of the Department or who communicates any such matter to any person except—

(a) to a person authorized by the Director-General to receive such information;

(b) to a lawfully constituted court or tribunal;

or

(c) as required to carry out his approved duties,

commits an offence against this Act.

(3) No act or thing done or omitted by any person for the purposes of this Act or done or omitted in good faith and without negligence by any person purporting to act for the purposes of this Act shall subject that person or any person acting in aid of him to liability in respect thereof.

**29. Hours of instruction.** The hours during which instruction is provided in a State school shall be as prescribed in the regulations.

**30. Religious instruction in school hours.** (1) Any minister of religion or accredited representative of a religious denomination, which representative has been approved by the Minister for the purpose, shall be entitled during school hours to give to the students in attendance at a State school who are members of the religious society or denomination of which he is a minister or the accredited representative religious instruction in accordance with regulations prescribed in that behalf during a period not exceeding one hour in each week on such day as the principal of that school appoints.

(2) Instruction in accordance with regulations prescribed in that behalf shall be given in State primary and special schools during school hours in selected Bible lessons. A separate reading book shall be provided for such purpose.

(3) Such instruction shall not include any teaching in the distinctive tenets or doctrines of any religious denomination, society or sect.

(4) Notwithstanding anything in this section, any parent of a student in attendance at a State school may withdraw such student from all religious instruction in such school by notification in writing to the principal that he desires the student to be so withdrawn.

(5) The provisions pursuant to this section shall not apply or extend to State preschool centres.

#### PART IV—PARENTS AND CITIZENS ASSOCIATIONS

##### *Division 1—Formation, Objectives, etc. of an Association*

**31. Preschool not to be a State school.** A State preschool centre is not a State school for the purposes of this Part.

**32. Associations to continue in existence.** All Parents' and Citizens' Associations formed under the *Education Act 1964-1988* before the commencement of this section and subsisting immediately prior to the commencement of this section shall be deemed to be associations formed under this Act.

**33. Formation of parents and citizens association.** (1) A parents and citizens association may be formed for any State school as and in the manner prescribed in the regulations.

(2) Parents of students attending a State school and any other persons of or above the age of 18 years interested in the welfare of a State school are eligible to be members of such an association for that State school.

(3) The principal of a State school shall *ex officio* be a member of an association formed for such State school.

(4) A member of the staff of a State school is eligible—

(a) for membership of an association formed for such State school;

and

(b) in all cases, other than in the case of the principal, to hold office in respect of such association.

**34. Formation of interim parents and citizens association.** (1) An interim parents and citizens association may be formed as and in the manner prescribed in the regulations for any State school within two years of the school's proposed date of commencement.

(2) Parents of students who might attend the State school and any other persons of or above the age of 18 years interested in the welfare of the proposed State school are eligible to be members of an interim association for that proposed State school.

(3) An interim association shall, unless otherwise provided in the regulations, be subject to all provisions of this Act that are applicable to a parents and citizens association.

(4) On commencement of the State school, the interim parents and citizens association shall be the parents and citizens association for that State school.

**35. Objectives of an association.** The objectives of an association shall be to promote the interests of, and facilitate the development and further improvement of, the State school for which it is formed.

**36. Functions of an association.** (1) In pursuit of an association's objectives, the functions of an association shall be—

(a) to foster generally community interest in educational matters;

(b) to endeavour to bring about closer co-operation between the parents of the students attending the State school for

which it is formed, other members of the community and the teachers and students at such school;

- (c) to provide, if requested by the principal or if an association considers it desirable so to do, advice and recommendations to the principal of the State school for which it is formed upon issues and concerns in respect of students attending that school;
- (d) to provide, if requested by the principal or if an association considers it desirable so to do, advice and recommendations to the principal of the State school for which it is formed upon the general operations and management of the school;
- (e) to provide or assist in the provision of financial or other resources or services for the benefit of the students of the State school for which it is formed;
- (f) by resolution in that behalf at an annual general meeting, general meeting or special meeting of the association to assist a State preschool centre associated with the State school for which it is formed to the extent provided under this Act;
- (g) to perform any other functions, not inconsistent with this Act, as the Minister may from time to time determine.

(2) In the discharge of its functions an association must comply with the provisions of this Act and must adhere to any directions that the Minister may give from time to time as regards policy.

**37. Manner of exercising power, etc.** (1) Subject to subsection (3), it is not competent to an association to exercise a power or authority or perform a duty without the prior majority vote of its members present and voting in respect of that exercise or performance at a duly constituted meeting.

(2) An executive committee of an association shall comprise the president, vice-president or vice-presidents (if more than one), secretary and treasurer of that association.

(3) In matters of urgency only, any three officers of the executive committee of the association may exercise a power or authority or perform a duty by a majority vote of that committee.

(4) Where an executive committee has acted or purported to act under subsection (3), full particulars of their actions shall be tabled as soon as practicable at the next scheduled general meeting of the association or at a special meeting called for that purpose.

Failure by an executive committee to table those particulars in accordance with this section shall not affect the validity of any action taken by the committee in respect thereof.

**38. Dissolution of association.** An association shall be dissolved—

- (a) if the State school for which it was formed has been discontinued;
- (b) if the number of members of an association is two or less than two;
- or
- (c) in such other circumstances as may be prescribed.

*Division 2—Officers of an Association*

**39. Officers of an association.** (1) An association shall elect each year, as and in the manner prescribed in the regulations, the following officers:—

- (a) a president;
- (b) at least one vice-president, as may be determined by an association by resolution in that behalf;
- (c) a secretary;
- (d) a treasurer;
- (e) such additional officers, if any, as may be determined by an association by resolution in that behalf.

(2) Officers elected pursuant to subsection (1) shall hold office in an honorary capacity.

(3) The office of treasurer shall not be held by either the president or the secretary.

*Division 3—Meetings of an Association*

**40. Meetings.** (1) In this section, the term “meeting” means any annual general meeting, general meeting or special meeting.

(2) Save as prescribed by or under this Act, meetings of an association shall be convened and the business at such meetings shall be conducted in such manner as an association shall determine.

(3) The president of an association shall preside at every meeting of the association at which he is present and—

- (a) in the absence of the president from such a meeting, a vice-president nominated and confirmed by majority vote at that meeting;

or

- (b) in the absence of the president or a vice-president from such a meeting, a member of the association elected from among the members who are present,

shall preside at that meeting.

(4) The president of an association or other person presiding at a meeting shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

(5) Members, including *ex officio* members, shall have the right to vote.

*Division 4—Sub-committees of an Association*

**41. Sub-committees.** (1) An association may establish sub-committees and appoint the membership of such sub-committees as and in the manner prescribed in the regulations.

(2) An association may establish a sub-committee in connexion with a State preschool centre associated with the State school.

(3) Sub-committee meetings of an association shall be convened and conducted as and in the manner prescribed in the regulations and subject thereto as an association shall determine.

*Division 5—Constitution of an Association*

**42. Constitution.** (1) Every association shall frame and adopt a Constitution and make any amendment thereto or alteration or modification thereof as and in the manner prescribed in the regulations.

(2) A Constitution, or amendments thereto or alterations or modifications thereof, shall have no force or effect unless or until approved by the Director-General.

*Division 6—Moneys, Property and Financial Provisions in respect of an Association*

**43. Vesting and use of moneys and other property in respect of an association.** (1) Subject to section 47 (3), all moneys received by an association shall by force of this section be vested in the Corporation to be applied by the association at the direction of the Corporation to the following purposes:—

Firstly in defraying all expenditure lawfully incurred by the association;

Secondly towards the objectives and functions of the association in accordance with this Act.

(2) Subject to subsection (1), all property acquired by an association including property acquired for the benefit of the students of a State school, whether acquired with or without any financial assistance from the Minister or the Department shall by force of this section be vested in the Corporation for the purposes of this Act.

**44. Association may borrow.** With the approval of the Minister first had and obtained, an association may borrow money from a person, bank or other financial institution.

**45. Financial year.** The financial year of an association shall be either the period of 12 months ending 31 December or the period of

12 months ending 30 September as determined by an association by resolution in that behalf.

**46. Audit of association accounts.** Subject to the provisions of section 59 of the *Financial Administration and Audit Act 1977-1988*, the accounts of an association shall be audited as and in the manner prescribed in the regulations.

*Division 7—Agreements Relating to an Association*

**47. Power to enter into agreements.** (1) Notwithstanding anything contained in this or any other Act or that any land in question is reserved for a particular purpose, the Minister and an association or either of them alone may enter (and it is hereby declared that they have always had such power) into an agreement with a Government department, local authority or any other person or body which agreement has as its object the provision of equipment, amenities or facilities for the benefit generally of the students attending a State school (whether or not the equipment, amenity or facility is provided at the State school premises or any other premises).

(2) Where an association alone proposes to enter into any such agreement it shall before entering into the agreement obtain the approval of the Minister authorizing it to do so. Such approval may be given generally in respect of a class of agreement or a particular agreement.

(3) An association shall deal with any funds coming into its hands pursuant to an agreement referred to in subsection (1)—

(a) for the purposes prescribed by section 43 (1) or subsection (1);

(b) subject to such purposes, as the Minister directs;

or

(c) in the absence of such prescription or direction, as the association thinks fit consistent with the objectives of an association.

(4) An agreement entered into by an association shall be subject to such conditions as are prescribed by regulation or, if not so prescribed, as the Minister imposes in respect of a class of agreement or a particular agreement.

**48. President to sign agreements for an association.** (1) Where an association at an annual general meeting, a general meeting or a special meeting, has passed a resolution to enter into an agreement, the president of the association is empowered to sign that agreement for and on behalf of the association.

(2) Upon the president's signature being affixed to any agreement in accordance with the provisions of this Act, the association shall be bound by the terms and conditions of that agreement.

(3) Subsection (1) does not derogate the validity of any agreement entered into by an association prior to the commencement of this section.

*Division 8—General Provisions Relating to an Association*

**49. Annual subscription.** An association may impose an annual subscription for membership as and in the manner prescribed in the regulations.

**50. Register of members.** An association shall establish and maintain a register of members as and in the manner prescribed in the regulations.

**51. Indemnification of association members.** The Minister may indemnify a member of an association against any liability incurred by him on account of anything done or omitted to be done by him as a member for the purposes of this Act or done or omitted to be done by him as a member in good faith and without negligence and purporting to be for the purposes of this Act.

**52. Association may employ.** An association may employ such employees as it considers necessary for the purpose of achieving its objectives.

**53. Mandatory insurance cover.** An association shall purchase and maintain such insurance coverage as required by the Director-General by notification published from time to time in the Education Office Gazette.

**54. Proceedings in relation to an association.** (1) Proceedings in any court may be taken and prosecuted in the name of the association through the president or any person being a member of the association appointed in writing for the purpose by the president: Provided that the Minister's approval is first had and obtained for any such proceeding.

(2) Every court of law shall take judicial notice of the signature of the president to any such appointment pursuant to subsection (1).

(3) In any such proceedings, it shall not be necessary to prove the authority of the person by or through whom the same are taken or prosecuted or the membership of the association by that person.

(4) (a) Proceedings in any court may be taken against an association in its name as prescribed in the regulations.

(b) Any document commencing proceedings in subsection (4) (a) shall be served on the Director-General.

(5) Any damages or costs awarded to a plaintiff by virtue of a proceeding against an association pursuant to subsection (4) shall be a lawful expense of an association pursuant to section 43 (1) and shall be met from funds available to the association.

(6) The Minister may, in granting approval for a proceeding pursuant to subsection (1) or in relation to a proceeding against the

association pursuant to subsection (4) (a), issue directions in relation to such proceeding in which case the association shall comply with such directions.

**55. Authority of an association.** (1) Without derogating from the authority of the principal in his capacity as the person in charge of the State school for which the association is formed, an association may exercise such authority as is consistent with its functions as prescribed by this Act.

(2) An association shall not exercise any authority over the teaching staff or over the control or management of any State school.

**56. Participation of association in school committees, etc.** (1) An association may, at the invitation of the principal of the State school for which it is formed and by resolution in that behalf passed by a majority at a meeting of the association, undertake to participate in any committee or other body comprising members of the staff of a State school established to make recommendations to the principal of a State school upon aspects of school operations.

(2) Subject to this Act, the president of an association is authorized to confer with the principal of the State school for which the association is formed upon the implementation of any recommendation made pursuant to subsection (1).

## PART V—COMPULSORY EDUCATION

**57. Compulsory enrolment and attendance at school.** Every parent of a child being of the age of compulsory attendance shall cause that child—

(a) to be enrolled at a State school;

or

(b) to be enrolled at a non-State school,

and to attend on every school day the State or non-State school at which he is enrolled unless there is in existence at the material time, in respect of that child, a dispensation or provisional dispensation granted in accordance with section 58.

**58. Dispensation from compliance with compulsory enrolment and attendance provisions.** (1) The Minister may grant to a parent of a child of the age of compulsory attendance, in respect of that child, dispensation from compliance with any obligation set forth in section 57 during the period specified, if any, in such dispensation and may at any time revoke the dispensation so granted.

(2) In connexion with a dispensation referred to in subsection (1), any of the following shall be deemed to be a valid reason for such dispensation:—

- (a) that the child concerned is receiving, in the opinion of the Minister, instruction—
  - (i) in a place other than a State school or a non-State school in accordance with guidelines prescribed by Order in Council;
  - (ii) in a range of subjects acceptable to the Minister, in some other manner which, in the opinion of the Minister, is efficient and regular;
- (b) that the child concerned has been prevented from attending school by—
  - (i) sickness;
  - (ii) temporary or permanent infirmity;
  - (iii) an unavoidable cause;or
  - (iv) fear of infection with disease, which, in the opinion of the Minister, is reasonable;
- (c) that the child has been prohibited, or belongs to a class which has been prohibited, by any Act, regulation or other rule of law from attending school on the ground that he, or such class, is suffering from an infectious or contagious disease or that his presence might be injurious to the health or welfare of other children attending school;
- (d) that—
  - (i) in the case of a child of the age of compulsory attendance who has not attained the age of 10 years—
    - (A) there is no State school which such child can attend within 3.2 kilometres, measured by the most practicable route, from the place of residence of such child;
    - and
    - (B) there does not exist within 1.6 kilometres, measured by the most practicable route, from the place of residence of such child a means of conveyance to a State school which means, in the opinion of the Minister, is satisfactory;or
  - (ii) in the case of a child of the age of compulsory attendance who has attained the age of 10 years—
    - (A) there is no State school which such child can attend within 4.8 kilometres, measured by the most practicable route, from the place of residence of such child;
    - and
    - (B) there does not exist within 3.2 kilometres, measured by the most practicable route, from the place of residence

of such child a means of conveyance to a State school which means, in the opinion of the Minister, is satisfactory;

- (e) that there is any other reason which, in the opinion of the Minister, is valid.

(3) The Minister may grant to a parent of a child of the age of compulsory attendance, in respect of that child, provisional dispensation from compliance with any obligation set forth in section 57 during the period specified in such provisional dispensation and may at any time revoke the provisional dispensation so granted.

A provisional dispensation shall be granted only in respect of that period of time, in whole or part, during which an application pursuant to section 59 is being determined.

**59. Application for dispensation from compliance with compulsory enrolment and attendance provisions.** A parent of a child of the age of compulsory attendance seeking dispensation from compliance with compulsory enrolment and attendance provisions, pursuant to section 58 shall make application in the form from time to time determined by the Minister.

**60. Enrolment at School of Distance Education, etc.** Every parent of a child being of the age of compulsory attendance who does not attend a State or non-State school because of a reason prescribed in section 58 (2) (d) shall cause that child to be enrolled with the School of Distance Education or any other State educational institution offering distance education in a course approved by the principal of that school or that institution, as the case may be, unless such child is receiving instruction in a place or manner prescribed in section 58 (2) (a) or is prevented or prohibited from attending school because of a reason prescribed in section 58 (2) (b), (c) or (e).

**61. Penalty for non-compliance with compulsory education provisions.** (1) A parent of a child being of the age of compulsory attendance who fails to comply with the provisions of section 57 or 60 commits an offence against this Act.

Penalty: For a first offence in respect of any child of that parent, five penalty units.

For a second or subsequent offence, whether in relation to the same child or another child of that parent, 10 penalty units.

(2) A proceeding for such an offence may be commenced upon the complaint of a member of the Police Force or a person authorized in writing in that behalf by the Minister.

- (3) In a proceeding in respect of such an offence—
- (a) it shall not be necessary to prove the authority of any person to commence such proceeding;
  - (b) an averment in a complaint that—
    - (i) a child is of the age of compulsory attendance;
    - (ii) a parent of a child has failed to cause such child to be enrolled at a State or non-State school or to attend on any school day the State or non-State school at which he is enrolled;
    - (iii) a parent of a child has failed to cause such child to enrol in the School of Distance Education or any other State educational institution offering distance education, in a course approved by the principal of that school or that institution, as the case may be,shall be evidence of the fact or facts averred and, in the absence of evidence to the contrary, shall be conclusive evidence of such fact or facts;
  - (c) a certificate purporting to be signed by the principal of a school—
    - (i) that the child named therein is or is not enrolled in such school;
    - or
    - (ii) wherein are specified the particulars of attendance of the child named therein at such school,shall be evidence of the fact or facts contained therein and, in the absence of proof to the contrary, shall be conclusive evidence of such fact or facts;
  - (d) a certificate purporting to be signed by the Minister as to whether or not he has granted to a parent specified therein of a child of the age of compulsory attendance specified therein a dispensation or a provisional dispensation in accordance with section 58 and the period, if any, of the operation of the dispensation shall be conclusive evidence of the fact or facts so certified.

**62. Employment of children of school age.** (1) A parent shall not employ or cause or permit to be employed during the hours from time to time prescribed for attendance at school his child who is of the age of compulsory attendance unless there is in existence at the material time, in respect of that child, a dispensation granted in accordance with section 58 (1).

Penalty: Five penalty units.

(2) For the purposes of subsection (1), a parent of a child who causes or permits such child to engage in any calling carried on by such parent by way of trade or for purposes of gain shall be deemed to employ such child in such calling.

- (3) A parent of a child shall not give—
- (a) to any person who is then employing such child;
  - (b) to any person who thereafter employs such child;
- or
- (c) to any person appointed under or for the purposes of this Act,

any information which to his knowledge is false concerning the age of such child or touching any other matter to which the preceding subsection relates.

Penalty: Five penalty units.

#### PART VI—PROVISIONS RELATING TO COMPANIES, JOINT AGREEMENTS AND ARRANGEMENTS, AGREEMENTS FOR USE OF FACILITIES AND STAFF

**63. Formation of and participation in companies, etc.** (1) The Corporation may be a member of, or form or participate in the formation of, or manage a company whether incorporated, established or entered into within or outside the State, the objects or purposes of which include one or more of the following objects or purposes:—

- (a) providing facilities or services for study, research or education;
- (b) undertaking research, development, consultancy or other services for commercial organizations, public bodies or individuals;
- (c) aiding or engaging in the development or promotion of research or the application or use of the results of such research;
- (d) preparing, publishing, distributing or licensing the use of literary or artistic work, audio or audio-visual material or computer software;
- (e) exploiting commercially any facility or resource of the Corporation including any study, research or knowledge, or the practical application thereof, developed by or belonging, whether alone or in conjunction with any other person or body, to the Corporation;
- (f) seeking or encouraging gifts to the Corporation or for the Corporation's purposes;
- (g) any other object or purpose not inconsistent with this Act which the Corporation considers to be appropriate in the circumstances.

(2) The Corporation, or any company of which the Corporation is a member, or which is formed, participated in or managed by the Corporation, may enter into any agreement or arrangement with any company the objects of which include one or more of the objects and purposes specified in subsection (1) (a) to (g) both inclusive, in respect of any of those lastmentioned objects and purposes.

**64. Use of facilities and staff.** The Corporation, in such circumstances and subject to such terms and conditions as it thinks fit, may contract or otherwise enter into an arrangement with any person or body for the use by him or it of facilities and staff controlled by the Corporation.

**65. Companies to furnish returns, etc.** Any company—

(a) formed by the Corporation pursuant to section 63;

(b) managed by the Corporation;

or

(c) of which the Corporation becomes a member,

shall furnish the Corporation with such reports, returns and information relative to the company's affairs as are from time to time required by the Corporation.

**66. Audit requirements.** Section 46I of the *Financial Administration and Audit Act 1977-1988* applies, to the extent provided by that section, to any company associated with the Corporation pursuant to section 65, as if the Corporation were a statutory body within the meaning of that Act.

**67. Restrictions on receiving, etc. any wage, salary, fee, etc.** (1) On the Corporation becoming a member of a company pursuant to the provisions of this Act, any remuneration, fee, allowance, amount by way of expenses or other moneys or payment received by the Corporation or by an officer of the Public Service of Queensland, acting on behalf of the Corporation in connexion with such membership, shall not be retained by the Corporation or such officer but shall be paid into Consolidated Revenue or, if it is in the nature of a recovery of expenditure, shall be paid into the fund to which it relates as provided in the *Financial Administration and Audit Act 1977-1988*.

(2) The provisions of subsection (1) shall not prohibit an officer of the Public Service of Queensland from receiving, accepting or retaining an amount by way of expenses in connexion with duties associated with such membership undertaken outside the ordinary office working hours of that officer.

## PART VII—GENERAL PROVISIONS FOR HIGHER EDUCATION AWARDS AND USE OF THE TERM “UNIVERSITY”, ETC.

**68. Interpretation.** In this Part—

(a) the term “award” means a degree, graduate diploma, diploma, associate diploma, certificate or a status, title or description of bachelor, master or doctor or the right to use a title or

description (whether denoted by words or by abbreviation of words or by letters);

- (b) the term “duly authorized” means authorized by—
- (i) an Act or an Act of the Commonwealth or another State or the law of a Territory of the Commonwealth;
  - (ii) the Minister;
- or
- (iii) the Government of the Commonwealth or another State;
- (c) the term “tertiary education” means education, other than primary or secondary education, offered wholly or primarily to students who have completed their primary and secondary education and who are above the age of compulsory attendance at school;
- (d) the term “higher education” means education which is specifically recognized by State and Commonwealth authorities as higher education;
- (e) the term “higher educational institution” means any university, college of advanced education or other institution in Australia that provides higher education, or any institution from time to time declared by the Governor in Council by notification published in the Gazette to be a higher educational institution for the purposes of this Part.

**69. Restriction on use of term “University”, etc.** A person shall not ascribe to the title of any institution, facility, school or college offering or purporting to offer tertiary education, the term “University”, or “University College” or any like term or like combination of such terms without the approval of the Minister.

**70. Restriction on conferring and using certain awards.** (1) A person shall not confer or hold himself out as competent to confer an award that is called by a name or is in a form that is likely or is intended by that person to induce a person to believe that the award is an award of a higher educational institution unless he is duly authorized to confer such an award.

(2) A person shall not send, exhibit, print or publish or cause to be sent, exhibited, printed or published a document or writing that is likely or is intended by that person to induce the belief that a person—

- (a) will confer;
- (b) undertakes to confer;

or

- (c) holds himself out as competent to confer,

in Queensland or elsewhere, an award of a higher educational institution unless that lastmentioned person is duly authorized to confer such an award.

(3) A person shall not, with a view to obtaining for himself a benefit or advantage (whether through the medium of a contract or otherwise)—

- (a) use;
  - (b) hold himself out as possessing;
- or

(c) induce or attempt to induce the belief that he possesses, an award of a higher educational institution unless that award has been conferred on him by a person who is duly authorized to confer such an award.

(4) Without derogating from the provisions of this section, it is lawful for a person to confer, undertake to confer or hold himself out as competent to confer a diploma, associate diploma or certificate for education, not being higher education—

- (a) with the approval of the Minister first had and obtained;
- or

(b) in the absence of such approval, if the diploma, associate diploma or certificate is endorsed clearly with the words “This Award is not recognized as higher education within the meaning of the term in the *Education (General Provisions) Act 1989*.”

#### PART VIII—GENERAL PROVISIONS

**71. Disposal of lands donated for school or other education purposes, the use for such purposes being no longer practicable.** Where the Corporation has taken or accepted any lands conveyed, devised, bequeathed or given to it—

- (a) for the benefit of any one or more schools of the Corporation;
- or
- (b) for the promotion of any particular branch or branches of education,

and the land so acquired can no longer be administered or appropriated in the manner and for the purposes expressed by the donor by reason of the fact that—

- (c) the school or schools in question have been discontinued;
- (d) the particular branch or branches of education in question have been discontinued in part or in whole;

or

- (e) it is not, in the opinion of the Governor in Council, practicable for the land to be administered in the manner and for the purposes expressed by the donor,

then, notwithstanding anything contained in this Act or any other Act or law or rule of law to the contrary, the Governor in Council may direct that such land or lands shall—

(f) be used;

or

(g) be sold, freed and discharged from all trusts, if any, to which it or they are or may be subject, and the proceeds of the sale applied or used,

for such other purposes of the Department as the Governor in Council shall direct, or—

(h) be reconveyed to the donor or, should the donor not be living at the time in question, be conveyed to such person or persons as the Governor in Council may direct.

**72. Provision of scholarships and allowances.** (1) For the purposes of this section, the term “school in receipt of subsidy”, used in relation to a school, is a reference to—

(a) each State school;

(b) each non-State school that is categorized by the Minister as being referred to by that term.

(2) Subject to appropriation by Parliament of money for the purpose, the Minister may, in accordance with regulations made in that behalf—

(a) provide scholarships to be competed for by students attending schools in receipt of subsidy;

(b) pay allowances in respect of students who, in the opinion of the Minister, are students in respect of whom allowances should be paid and who are attending schools in receipt of subsidy.

(3) Where a school, not being a State school, is to be or is being established and the Minister is of the opinion that, on its establishment it will provide satisfactory facilities and efficient and regular instruction in a range of subjects acceptable to him, he may categorize that school provisionally as a school in receipt of subsidy, and the provisions of subsection (2) shall apply to that school.

(4) Where allowances are paid pursuant to subsection (2) (b) in the case of a school in receipt of subsidy that the Minister has categorized provisionally pursuant to subsection (3), such allowances may be paid from the date the Minister is satisfied that the school is providing satisfactory facilities and efficient and regular instruction in a range of subjects acceptable to him or, in lieu thereof, from such other date the Minister considers appropriate in the circumstances.

(5) The Minister in categorizing a school as a school in receipt of subsidy or provisionally pursuant to subsection (3) may impose such terms and conditions and specify such other matter or thing as he considers necessary or desirable.

(6) The Minister may from time to time cause to be inspected by a person authorized by him in that behalf any school which may be attended or is attended by a student in respect of whom moneys of the State may be, are being or have been expended as the case may be pursuant to this section.

(7) Every school that immediately prior to the commencement of this section is an approved school within the meaning of section 63 (2) of the *Education Act 1964-1988* shall on such commencement be taken to be a school in receipt of subsidy categorized by the Minister as such pursuant to this section.

**73. Provision for student hostels.** The Minister may provide (and it is hereby declared that he has always had such power to so provide) grants, allowances and subsidies to persons or bodies providing and conducting hostels for the accommodation of students attending schools in receipt of subsidy within the meaning of the term in section 72 in accordance with policies approved from time to time by him for that purpose.

**74. Inspection of non-State schools, etc.** (1) Subject to subsection (2), the Minister may cause—

- (a) a non-State school;
- (b) a place other than a State school or non-State school referred to in section 58 (2) (a) (i) or a place where instruction in some other manner is conducted pursuant to section 58 (2) (a) (ii);
- (c) any other institution preparing students for a Junior or Senior Certificate,

to be inspected by a person authorized by him in that behalf, if the Minister is in receipt of a complaint which—

- (d) is concerned with a matter which threatens or interferes with, or is likely to threaten or interfere with, the education of students at that non-State school, place or institution, as the case may be;

and

- (e) is not an anonymous complaint and which, in the opinion of the Minister, is not a frivolous or vexatious complaint.

(2) Before causing an inspection to be made under subsection (1), the Minister must consult with and have regard to the views of—

- (a) in the case of a non-State school, the principal and the body and authority that appear to the Minister to be the relevant responsible body and authority in respect of that school;
- (b) in the case of a place of a kind referred to in subsection (1) (b), the person who is or appears to the Minister to be in charge of that place;
- (c) in the case of an institution of a kind referred to in subsection (1) (c), the person who is or appears to the Minister to be in charge of that institution.

(3) The authorized person referred to in subsection (1) shall prepare and transmit expeditiously to the Minister a report in connexion with any inspection conducted under this section and shall transmit at the same time a copy of that report to the principal and the body and authority referred to in subsection (2) (a), the person referred to in subsection (2) (b) or the person referred to in subsection (2) (c), as the case may be.

**75. Restriction on establishment of a place, etc. for teaching overseas curriculum.** (1) A person shall not establish or continue any place, institution, facility, school or college (hereinafter in this section and in section 76 referred to as a "place") in Queensland which will offer or purport to offer or, offers or purports to offer as the case may be, a curriculum which, in the opinion of the Minister, constitutes a complete or partial primary or secondary curriculum of an overseas country, unless the approval of the Governor in Council is first had and obtained.

(2) The Governor in Council, on the recommendation of the Minister, may from time to time by Order in Council authorize the establishment of a place referred to in subsection (1).

(3) The Governor in Council may in the Order in Council authorizing the establishment of a place, or by a subsequent Order in Council, determine and impose such terms and conditions, matters and things as he considers necessary, appropriate or desirable in connexion with the authorization of the establishment of the place in question, and alter, amend or otherwise modify those terms and conditions and matters and things.

(4) For the purposes of this section the Minister shall cause each place so authorized to be inspected at such intervals as appear to him to be appropriate.

(5) In connexion with any inspection made pursuant to subsection (4), the Minister is authorized to recoup any costs incurred in relation thereto.

(6) Subject to appropriation by Parliament of money for the purpose, the Minister may pay such allowances, if any, as may be prescribed in respect of persons enrolled in or attending a place who, in the opinion of the Minister, are persons in respect of whom allowances should be paid.

(7) The Governor in Council may at any time revoke such authorization by Order in Council on the recommendation of the Minister.

(8) The provisions of this section do not apply to a State educational institution, a non-State school or a place where instruction of a kind referred to in section 58 (2) (a) (i) or (ii) is received.

**76. Restriction on enrolment, etc. of an overseas person.** (1) A person shall not enrol, or provide any instruction whatsoever to, any

person who, in the opinion of the Minister, is from an overseas country and who is enrolling to receive instruction on a fee-paying basis in—

- (a) a State school or non-State school;
- (b) any other institution preparing students for a Junior or Senior Certificate;
- or
- (c) a place authorized pursuant to section 75,

unless the approval of the Governor in Council, on the recommendation of the Minister, is first had and obtained.

(2) The Governor in Council may in the Order in Council approving enrolment or provision of instruction referred to in subsection (1), or by a subsequent Order in Council, determine and impose such terms and conditions, matters and things as he considers necessary, appropriate or desirable in connexion with the approval of enrolment or provision of instruction in question, and alter, amend or otherwise modify those terms and conditions and matters and things.

(3) The Governor in Council may at any time revoke such authorization by Order in Council on the recommendation of the Minister.

**77. Forming or establishing associations, trusts and other arrangements.** (1) The Minister may form or establish or participate in the forming or establishing of (and it is hereby declared that he always had such power to so form, establish or participate) any association, trust or other such arrangement for any purpose which may seem directly or indirectly calculated to further education in any way whatsoever.

(2) Any association, trust or other such arrangement formed or established under subsection (1) shall be deemed to be a statutory body for the purposes of Part IIA of the *Financial Administration and Audit Act 1977-1988* and the provisions of that Part shall apply to any such arrangement accordingly.

**78. Regulations.** (1) The Governor in Council may make regulations not inconsistent with this Act for or with respect to—

- (a) the imposition and collection of fees and charges for the purposes of this Act pursuant to section 11 (1);
- (b) the imposition and collection of fees in connexion with the preparation and issuance of reports in respect of students in State schools and the circumstances in which and the persons to whom such reports may issue, but not being reports periodically and in the normal course of school administration made to parents relating to results and progress of students;
- (c) the hours during which instruction is provided in State schools and circumstances with respect to the operation of

- those hours, including provision for different hours to apply for different State schools;
  - (d) all matters concerning the management, administration and control of the operations of a State educational institution;
  - (e) the formation and operation of parents and citizens associations and matters related thereto;
  - (f) the formation and operation of interim parents and citizens associations and matters related thereto including exemption from any provisions of this Act that are applicable to a parents and citizens association;
  - (g) the provision of scholarships and the payment of allowances pursuant to section 72;
  - (h) the recouping of any costs for the purposes of this Act pursuant to section 75 (5);
  - (i) offences against the regulations and prescribing the amount of any penalty for an offence against any regulation, provided that any such penalty shall not exceed ten penalty units;
  - (j) all matters required or permitted by this Act to be prescribed where such matters are to be or may be prescribed by the regulations or where the method of prescription is not otherwise provided;
  - (k) all matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects or purposes of this Act.
- (2) The power to regulate conferred by this section includes the power to prohibit.

**79. Annual Report.** The Minister shall in every year cause to be laid before the Legislative Assembly a report of the administration of this Act during the preceding year.

**80. Tabling of certain subordinate legislation.** (1) Section 28A of the *Acts Interpretation Act 1954-1985* applies in respect of Orders in Council made for the purposes of this Act, and, for the purposes of that application, that section shall be read and construed as if references to regulations were references to Orders in Council made for the purposes of this Act.

(2) Every Proclamation made under this Act shall be laid before the Legislative Assembly within 14 sitting days after publication in the Gazette.

**81. Savings.** (1) All lands and improvements thereon held by the Minister for Education of Queensland for the purposes of the *Education Act 1964-1988* immediately prior to the commencement of this section shall upon such commencement continue to be held by the Corporation for the purposes of this Act.

(2) Unless otherwise expressly provided, every Order in Council, approval, determination, authority, certificate, direction, notification,

order, permission, appointment, arrangement, prohibition, exemption, refusal, registration or other act of authority made, granted, issued, done or otherwise originated under the *Education Act 1964-1988* and subsisting immediately prior to the commencement of this section shall, subject as hereinafter provided on such commencement, continue in force for the purposes of this Act as fully and effectually as if it had been granted, issued, done or otherwise originated under a corresponding provision of this Act until it expires by effluxion of time or is rescinded, repealed, revoked, cancelled, suspended or otherwise determined under this Act: Provided that every such Order in Council, approval, determination, authority, certificate, direction, notification, order, permission, appointment, arrangement, prohibition, exemption, refusal, registration or other act of authority shall be read and construed subject to this Act.

(3) Nothing in this section limits the operation and effect of the *Acts Interpretation Act 1954-1985*.

**82. Offences generally.** A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

**83. General penalty.** A person who commits an offence against this Act is liable, if no specific penalty is provided for that offence, to a penalty—

- (a) for a first offence against that provision, 10 penalty units;
- (b) for a second or subsequent offence against that provision, 10 penalty units and a daily penalty of one penalty unit.

**84. Evidentiary provisions.** In any proceeding for the purposes of this Act, a certificate purporting to be signed by the Minister certifying—

- (a) that a school is or is not a non-State school for the purposes of this Act;
  - (b) that a person is or is not a disabled person for the purposes of this Act;
- or
- (c) that a person is or is not a student for the purposes of this Act,

shall upon its production be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in that certificate.

## PART IX—AMENDMENT OF EDUCATION ACT 1964-1988

**85. Citation.** (1) In this Part the *Education Act 1964-1988* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Education Act 1964-1989*.

**86. Amendment of s. 2. Parts and Divisions.** Section 2 of the Principal Act is amended by—

(a) omitting all words from and including the words “PART II—GENERAL PROVISIONS” to and including the words “*Division II—Parents’ and Citizens’ Associations*”;

(b) omitting all words from and including the words “*Division IA—Pre-school Education*” to and including the words “PART IV—COMPULSORY EDUCATION”;

(c) omitting all words from and including the words “PART IX—SCHOLARSHIPS AND ALLOWANCES TO SCHOOL STUDENTS” to and including the words “PART XI—OTHER EDUCATIONAL INSTITUTIONS”.

**87. Amendment of s. 4. Interpretation.** Section 4 of the Principal Act is amended by omitting the following definitions:—

“Age of compulsory attendance”, “Agricultural instruction”, “Corporation”, “Handicapped child”, “Parent”, “Parents’ and Citizens’ Association”, “Primary School”, “Principal” or “Head”, “School day”, “Secondary school”, “Special education”, “Special school” and “Special education unit”.

**88. Repeal of Part and Division headings and ss. 5, 5A, 6, 7, 9 and 9A.** The Principal Act is amended by—

(a) omitting the Part heading immediately preceding section 5;

(b) omitting the Division heading immediately preceding section 5;

(c) repealing sections 5 (Department of Education), 5A (Power of delegation by Director-General), 6 (The corporation of the Minister), 7 (Fees to be disposed of for the purposes of this Act as the Governor in Council shall direct), 9 (Annual Report) and 9A (Disposal of lands donated for school or other education purposes, the use for such purposes being no longer practicable).

**89. Repeal of Division heading and ss. 10, 11, 12, 12A and 13.** The Principal Act is amended by—

(a) omitting the Division heading immediately preceding section 10;

(b) repealing sections 10 (Formation of Parents’ and Citizens’ Association), 11 (Objects of association), 12 (Funds, property, etc., of association), 12A (Associations may borrow and employ) and 13 (Association not to exercise authority over teachers).

**90. Repeal of ss. 14 to 22A both inclusive.** The Principal Act is amended by repealing sections 14 (Power to establish and maintain schools and pre-school centres), 15 (State schools may be discontinued), 16 (Use of schools), 17 (Inspection of schools), 18 (Instruction to be free), 19 (Hours of instruction), 20 (Religious instruction in school hours),

**21 (Exclusion of pupils), 21A (Temporary exclusion of pupils), 22 (Wilful disturbance of school) and 22A (Trespass on school premises).**

**91. Amendment of s. 23A. Application of certain sections to State pre-school centres.** Section 23A of the Principal Act is amended by—

(a) omitting the words “sections 15, 16, 17, 18, 21, 21A, 22, 22A and 23” and substituting the words “section 23”;

(b) omitting the words “those sections” and substituting the words “that section”.

**92. Repeal of Division headings and ss. 23B, 24, 25 and 26.** The Principal Act is amended by—

(a) omitting the Division heading immediately preceding section 23B;

(b) repealing section 23B (**Provision of pre-school education**);

(c) omitting the Division heading immediately preceding section 24;

(d) repealing section 24 (**Provision of primary education**);

(e) omitting the Division heading immediately preceding section 25;

(f) repealing section 25 (**Provision of secondary education**);

(g) omitting the Division heading immediately preceding section 26;

(h) repealing section 26 (**Provision of special education**).

**93. Repeal of Part IV. Compulsory Education.** The Principal Act is amended by repealing Part IV.

**94. Repeal of Part IX. Scholarships and Allowances to School Students.** The Principal Act is amended by repealing Part IX.

**95. Repeal of Part X. Teacher Education.** The Principal Act is amended by repealing Part X.

**96. Repeal of Part XI. Other Educational Institutions.** The Principal Act is amended by repealing Part XI.

PART X—AMENDMENT OF UNIVERSITY OF QUEENSLAND  
ACT 1965-1987

**97. Citation.** (1) In this Part the *University of Queensland Act 1965-1987* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *University of Queensland Act 1965-1989*.

**98. Repeal of s. 32. Restriction on conferring and using certain awards.** The Principal Act is amended by repealing section 32.

**PART XI—REPEAL OF EDUCATION ACT AND ANOTHER ACT AMENDMENT ACT 1987**

**99. Repeal of Act No. 70 of 1987.** The *Education Act and Another Act Amendment Act 1987* is repealed.