

MINISTERIAL ORDER NO 53

EDUCATION AND TRAINING REFORM ACT 2006

ORDER AMENDING THE CONSTITUTING ORDERS OF THE SCHOOL  
COUNCILS OF ALL GOVERNMENT SCHOOLS

The Minister for Education makes the following Order:

1. *Objective*

The objective of this Order is to amend the constituting Orders of the school councils of all Government schools.

2. *Authorising provision*

This Order is made under section 2.3.2(6) of the **Education and Training Reform Act 2006**.

3. *Definitions*

In this Order:

“Constituting Orders” means the constituting Orders of the school councils of all Government schools.

4. *Commencement*

This Order takes effect upon the date the Minister for Education signs the Order.

5. *Amendment to the constituting Orders*

The constituting Orders are amended as follows:

(a) After clause 1, insert the following:

1A. **Objectives of the school council**

The objectives of the school council with regard to any school in relation to which it is constituted are:

- (a) to assist in the efficient governance of the school;
- (b) to ensure that its decisions affecting students of the school are made having regard, as a primary consideration, to the best interest of the students;
- (c) to enhance the educational opportunities of students at the school; and
- (d) to ensure the school and the council complies with any requirements of the **Education and Training Reform Act 2006**, any regulations or a Ministerial Order made under that Act, or a direction, guideline or policy issued under that Act.

1B. **Functions of the school council**

The functions of the school council with regard to any school in relation to which it is constituted are:

- (a) to establish the broad direction and vision of the school within the school's community;
- (b) to arrange for the supply of goods, services, facilities, materials, equipment and other things or matters that are required for the conduct of the school including the provision of preschool programs;
- (c) to raise funds for school related purposes;
- (d) to regulate and facilitate the after hours use of the school premises and grounds;
- (e) to exercise a general oversight of the school buildings and grounds and ensure that they are kept in good order and condition;
- (f) to provide for the cleaning and sanitary services that are necessary for the school;
- (g) to ensure that all money coming into the hands of the council is expended for proper purposes relating to the school;
- (h) to provide meals and refreshments for the staff and students of the school and make charges for those meals or refreshments;
- (i) to inform itself and take into account any views of the school community for the purpose of making decisions in regard to the school and the students at the school;
- (j) to generally stimulate interest in the school in the wider community; and
- (k) to perform any other function or duty or to exercise any power conferred or imposed on the council:
  - (i) by or under the **Education and Training Reform Act 2006** or any regulations made under that Act; or
  - (ii) by a Ministerial Order made, or direction issued, by the Minister under the **Education and Training Reform Act 2006**.

#### **1C. Powers of the school council**

1C.1 For the purpose of meeting its objectives or performing its functions or duties a school council may:

- (a) enter into contracts, agreements or arrangements;
- (b) establish trusts and act as trustee of them;
- (c) subject to section 2.2.4 of the **Education and Training Reform Act 2006** and in accordance with any Ministerial Order made under that Act, charge fees to parents for goods, services or other things provided by the school to a child of the parent; and
- (d) do any other thing that is necessary or convenient to be done for, or in connection with, meeting its objectives or performing its functions or duties.

1C.2 In addition to the powers under clause 1C.1, the council has any other powers conferred on it by or under the **Education and Training Reform Act 2006**, or any regulations or a Ministerial Order made under that Act.

1C.3 A school council does not have the power to do any of the following:

- (a) employ a teacher with no date fixed for the termination of that employment;
- (b) purchase or acquire for consideration any land or building; or
- (c) unless authorised by or under the **Education and Training Reform Act 2006** or any regulations or a Ministerial Order made under that Act:
  - (i) licence or grant any interest in land, including school lands or buildings;
  - (ii) enter into hire purchase agreements;
  - (iii) obtain loan or credit facilities;
  - (iv) form or become a member of a corporation;
  - (v) provide for any matter or thing outside of Victoria unless it is related to an excursion by students from a school in relation to

- which the council is constituted or the professional development of staff of that school;
- (vi) purchase a motor vehicle, boat or a plane.

#### 1D. Accountability

- 1D.1 The school council is accountable to the Minister for Education in respect of the performance by the council of its functions in accordance with any Order made by the Minister.
- 1D.2 The principal of a school is the executive officer of the school council and must ensure that:
- (a) adequate and appropriate advice is provided to the school council on educational and other matters;
  - (b) the decisions of the school council are implemented; and
  - (c) adequate support and resources are provided for the conduct of school council meetings.

(b) For the heading "PART B - ELECTION AND MEMBERSHIP, substitute "PART B - GENERAL".

(c) In clause 3.1, delete all of the existing definitions (that is, from "Constituting Order" to "School year commencement date" inclusive), and insert the following:

"Composition and Election provisions" has the meaning given in the School Council Composition and Elections Order.

"DEECD" means the Department of Education and Early Childhood Development.

"Public Reporting Meeting" means a public reporting meeting as described in regulation 28 of the Education and Training Reform Regulations 2007, as amended from time to time.

"School Council Composition and Elections Order" means Ministerial Order no.52 made under the **Education and Training Reform Act 2006**, as that Order is amended and is in force from time to time.

(d) Delete clauses 3.2, 3.3 and 3.4.

(e) Renumber clause 3.5 as "3.2". In that renumbered clause:

- (i) for "a", substitute "a" or "the"; and
- (ii) for "the", substitute "a".

(f) Delete clause 3.6, and delete clauses 4 to 22 inclusive.

(g) Before the heading "PART C - POWERS", insert the following:

#### 4. Specific clauses to prevail over general clauses

To the extent that there is any inconsistency between:

- (a) clause 1B; or
- (b) clause 1C,

and any other clause in this Order, that other clause will prevail.

**5. School council composition and elections**

- (a) The Composition and Election provisions, as amended and in force from time to time, are deemed to be a part of this Order and have effect accordingly.
- (b) *Schedules 1 and 2*, which deal with the composition of the school council, are part of this Order and have effect accordingly.

(h) After the heading “PART C - POWERS”, insert the following:

**6. Employment of staff**

- 6.1 The school council, in accordance with the **Education and Training Reform Act 2006**, may:
  - (a) employ:
    - (i) teachers for a fixed period not exceeding one year or on a casual basis;
    - (ii) teacher aides; or
    - (iii) any other staff,for the purpose of performing its functions and duties; and
  - (b) employ any person to enable the council to do anything it is authorised to do by section 2.3.11 or Division 6 of the **Education and Training Reform Act 2006**.
- 6.2 If the school council employs a person under clause 6.1, it may do so on behalf of a group of school councils, and the group of school councils may decide from time to time in a manner determined by agreement amongst themselves the time which the person is to spend on each school.

**7. Use of school buildings and grounds for activities**

- 7.1 The school council may:
  - (a) conduct programs in or use;
  - (b) subject to any conditions imposed by the council, join with any other person or body to conduct programs in or use; or
  - (c) subject to any conditions imposed by the council, allow any other person or body to conduct programs in or use,any buildings or grounds of any school in relation to which the council is constituted for the purposes of educational, recreational, sporting or cultural activities for students, the local community or young persons.
- 7.2 The school council may only allow buildings and grounds of a school to be used under clause 7.1 when the buildings or grounds are not required for ordinary school purposes.

**8. School council may carry out works**

- 8.1 The school council may, in regard to any school in relation to which it is constituted, with the approval of the Minister for Education given either generally or in any particular case:
  - (a) construct, or carry out any improvements to any building structure on the school grounds, or carry out any improvements in or to the school grounds;
  - (b) enter into a contract with any person for or in relation to the construction or carrying out by that person of any such building structure or improvements or of any other work which the council is authorised or required by or under the **Education and Training Reform Act 2006** to carry out; or



- (c) construct or carry out any improvements to any building structure, or carry out any improvements, on, in or to the school grounds or any other land that the Minister for Education has acquired an estate or interest in to provide preschool programs.

8.2 The school council may obtain and accept offers or tenders for any work approved by the Minister for Education under this clause that it proposes to carry out.

**9. School council authorised to perform works for another school council**

The school council if so authorised by the Minister for Education is authorised and empowered to:

- (a) enter into contracts with another school council for or in connection with:
  - (i) the construction of buildings or structures or the carrying out of improvements on, in or to the grounds of the school in relation to which the council is constituted; or
  - (ii) any other work which the school council is authorised or required by or under the **Education and Training Reform Act 2006** to carry out; and
- (b) do or comply with anything necessary or expedient for carrying the contract into effect.

**10. School council may form sub-committee**

Subject to the **Education and Training Reform Act 2006** and any regulations made under that Act, the school council may form a sub-committee, consisting of at least one member of the council and any other persons, to assist the council.

**11. School council may delegate powers, duties or functions**

Subject to the **Education and Training Reform Act 2006** and any regulations made under that Act, the school council may by instrument delegate all or any of the powers, duties or functions conferred or imposed on the council by or under the **Education and Training Reform Act 2006**, any regulations or a Ministerial Order made under that Act, or a direction issued by the Minister under that Act, except this power of delegation to another person or body.

**12. School council may form committees to manage joint facilities**

If the school council enters into an agreement under its powers under the **Education and Training Reform Act 2006** for the use of any real or personal property by other persons or bodies, the school council may agree with the other parties to the agreement to form a committee for the management of the property.

**13. School council may delegate powers, duties or functions to members of committee**

A school council that agrees to form a committee to manage property under clause 12 may, with the approval of the Minister for Education, delegate by instrument to members of the committee all or any of the council's powers, duties or functions conferred or imposed on the council by or under the **Education and Training Reform Act 2006** in relation to that property except this power of delegation.

**14. School council may sell property**

14.1 The school council may sell equipment, goods or other similar personal property acquired for use in any school in relation to which it is constituted.

14.2 If the proceeds from the sale of property under clause 14.1 are less than the amount determined by the Minister for Education, the school council may

keep those proceeds.

- 14.3 If the proceeds from the sale of property under clause 14.1 are equal to or more than the amount determined by the Minister for Education, the school council may keep those proceeds, if the person appointed by the Secretary to the DEECD has given approval to the school council to do so.
- 14.4 For the purposes of clauses 14.2 and 14.3, a determination of the Minister for Education:
  - (a) must be in writing; and
  - (b) may be varied or revoked by the Minister in writing.
- 14.5 The Secretary to the DEECD may appoint a person to give approvals under clause 14.3.
- 14.6 An approval given under clause 14.3 must be:
  - (a) in writing; and
  - (b) given before the property is sold.

## **15. Preschool Programs**

### **15.1 School councils may provide for preschool programs**

- (1) If a school provides primary education, the school council may:
  - (a) provide preschool programs on the premises of that school or on any other land or premises under the control of the Minister for Education;
  - (b) enter into an agreement or arrangement with any other school council or other person or body for that council, person or body to use part of the premises of that school or other premises under the control of the Minister for Education to provide a preschool program on those premises; or
  - (c) enter into an agreement or arrangement with any other school council or other person or body to jointly provide a preschool program.
- (2) If the school council provides a preschool program or enters into an arrangement or agreement to provide a preschool program, it must ensure that, in any records kept by the school or the school council, the preschool children using the program are accounted for separately from students enrolled at the school in school programs.

### **15.2 Council may grant lease or licence over preschool land**

A council of any school in relation to which it is constituted may, if authorised in writing by the Minister for Education, either generally or in any specified circumstances, grant a leasehold interest in, or a licence over, land of the school to be used to operate a preschool program or programs for children.

### **15.3 Fees for preschool programs**

A council of any school in relation to which it is constituted, or any other person or body authorised by the council under clause 15.1, may require the payment of fees for the provision of preschool programs and other related services.

### **15.4 Application of, and accounting for, money received**

A school council that provides or makes agreements or arrangements for the provision of preschool programs under clause 15 must ensure:

- (a) that any fees or other money received by the council in the course of that provision or those agreements or arrangements is applied to the

- provision of preschool programs unless directed otherwise by a direction or guideline issued by the Minister for Education; and
- (b) that separate accounts and financial records are maintained in relation to the provision of those programs.

**16. Payment of members**

- 16.1 A member of the council is not to receive any payment for his or her services as a member.
- 16.2 This does not prevent the council reimbursing a member for any reasonable expenses incurred in the performance of his or her duties as a member.

\* \* \*

**17-23. Blank.**

\* \* \*

- (i) In clause 25, for "Secretary, Department of Education and Early Childhood Development", substitute "Secretary to the DEECD".
- (j) In clause 27.5(2), for "Annual", substitute "council's Public".
- (k) In the following clauses, for "Department of Education and Early Childhood Development", substitute "DEECD":  
(i) clause 27.3(1)(a);  
(ii) clause 27.3(1)(b);  
(iii) clause 27.4(4)(b); and  
(iv) clause 29(c).
- (l) In clause 29(b):  
(i) before "Education and Training Reform Regulations 2007", insert "the";  
(ii) delete "Constituting"; and  
(iii) between "or" and "Ministerial", insert "any".
- (m) In clause 30(b)(ii), for "of the Department of Education and Early Childhood Development", substitute "to the DEECD".
- (n) In clause 30(b)(iii):  
(i) for "the School Purchasing Card", substitute "any purchasing card"; and  
(ii) after institution, insert "to the school council".
- (o) Before clause 32, insert "31. Blank."

**6. *Amendment to the constituting Orders containing a clause 3A***

The constituting Orders that contain a clause 3A are amended as follows:

- (a) In clause 3A.2, for "4.2", substitute "5B.2".
- (b) In clause 3A.3(a), for "4.3(a)", substitute "5B.3(a)".
- (c) In clause 3A.4(a), for "4.4", substitute "5B.4".

- (d) In clause 3A.4(b)(i), for "4.3", substitute "5B.3".
- (e) In clause 3A.4(c):
  - (i) for "4.5, 4.6 and 4.7", substitute "5B.5, 5B.6 and 5B.7"; and
  - (ii) for "4.4", substitute "5B.4".
- (f) In clause 3A.5(a), for "5", substitute "5C".
- (g) In clause 3A.5(b), for "17.1", substitute "5R.1".
- (h) In clause 3A.6, for "7.5, 20.1(b) and 22.5", substitute "5E.5 and 5U.1(b)".
- (i) In clause 3A.7(a), for "17.1(f)", substitute "5R.1(f)".
- (j) In clause 3A.7(b), for "17.1", substitute "5R.1".
- (k) In clause 3A.7(c), for "4.3A(a)", substitute "5B.3A(a)".
- (l) In clause 3A.7(c), remove the underlining of the text.
- (m) In clause 3A.10(a), for "3.1", substitute "5A.1".

#### **7. *Amendment to the constituting Orders containing a clause 33***

The constituting Orders that contain a clause 33 are amended as follows:

- (a) In clause 33.2, for "Part B (except clauses 2, 3, 4.3 (insofar as it defines eligibility for election), 4.3A(a) and 17) does", substitute "the Composition and Election provisions (except clauses 5A, 5B.3 (insofar as it defines eligibility for election), 5B.3A(a) and 5R) do".
- (b) In clause 33.5, for "Subject to clause 33.6, the", substitute "The".
- (c) For the entire existing clause 33.6, substitute "33.6 Blank.".
- (d) In clause 33.11, for "provisions of Part B of this Order (except clauses 6.3, 22.4 and 22.5) and clause 33.6", substitute "Composition and Election provisions (except clause 5D.3)".
- (e) For "Education and Training Regulations 2007" wherever occurring in clause 33, substitute "Education and Training Reform Regulations 2007".

#### **8. *Transitional***

Notwithstanding:

- (a) anything else in this Order; or
- (b) anything in the School Council Composition and Elections Order,

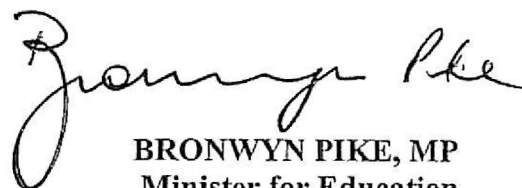
if a person validly held office as a member of a school council in a particular membership

category the day before this Order was made, nothing in this Order or in the School Council Composition and Elections Order, insofar as either Order changes the eligibility criteria for membership of a particular membership category, affects the entitlement of that person to continue to be a member of the school council in that membership category for the duration of their current term of office as a member of the school council.

In this clause 8, "School Council Composition and Elections Order" means Ministerial Order no. 52 made under the **Education and Training Reform Act 2006**.

Dated:

*January 2nd 2008*

  
**BRONWYN PIKE, MP**  
**Minister for Education**