
No. 10 of 2004

VIRGIN ISLANDS
EDUCATION ACT, 2004
ARRANGEMENT OF SECTIONS

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TECHNOLOGICAL AND VOCATIONAL EDUCATION AND
TRAINING COUNCIL

No. 10 of 2004**Education Act, 2004****Virgin
Islands**

I Assent
THOMAS MACAN
Governor
5th August, 2004

VIRGIN ISLANDS**No. 10 of 2004**

An Act respecting education and for related matters.

[Gazetted 19th August, 2004]

ENACTED by the Legislature of the Virgin Islands as follows:

PRELIMINARY

Short title and
commencement.

1. This Act may be cited as the Education Act, 2004 and shall come into operation on such date as the Governor may, by Proclamation published in the Gazette, appoint and the Governor may appoint different dates for different provisions or Parts of the Act.

Interpretation.

2. In this Act unless the context otherwise requires -

"adult education" means continuing education, that is to say, training activities organised on a part-time basis suitable to the requirements of a person over compulsory school age and designed to enhance knowledge, skills, attitudes or cultural awareness, but does not include tertiary education;

"Chief Education Officer" means the public officer holding such post in the Public Service of the Territory;

"class", in relation to a particular student and a particular subject, means the teaching group in which a

student is regularly taught that subject or, where there are two or more groups, such one of them as may be designated by the principal of the school;

"compulsory school age" means from five years of age to sixteen years of age;

"early childhood education" means education and care suited to the requirements of a child under five years of age provided either within a primary school or in an early childhood education facility specially designed for that purpose;

"denominational school" means an educational institution established, managed and maintained by a religious community at its own expense;

"distance education" means an educational process in which a significant proportion of the teaching is conducted through one medium or a combination of media by persons removed in space or time from the learners;

"educational programme" means a course of study whether conducted in a school or otherwise that is designed to meet the specified learning needs of an individual or group of persons;

"Minister" means the Minister responsible for Education;

"ministry" means the Department of Education;

"parent", in relation to any child, includes a guardian and every person who is liable to maintain or has the custody of any child and a person living as husband with the mother of a child whether or not he is the father and a person living as wife with the father of a child whether or not she is the mother;

"Permanent Secretary" means the Permanent Secretary responsible for the ministry;

"primary education" means full-time education suited to the requirements of students of primary school age;

"primary student" means a student who at the beginning of the school year has attained the age of five years or

will attain that age within six months of the beginning of the school year, but has not attained the age of fourteen years, and who has not yet gained admission to a secondary school;

"principal" means the head of a school under this Act;

"private school" means a school that is owned, managed and financed by an individual, religious community or body, trust, or incorporated or unincorporated body, and which is attended by twelve or more students continuously for more than eight hours per week and is registered under this Act;

"public school" means a school that is wholly or mainly maintained at the public's expense and to which the general public has, subject to this Act and regulations, unconditional access;

"school" means any early childhood education facility, primary or secondary school, or any school for special or adult education, any training centre or tertiary institution or any institution of higher education as may be prescribed;

"school guidance counsellor" means a public officer holding such post in the Public Service of the Territory;

"school hours" means the period prescribed during which attendance is required at school under this Act;

"school year" means such period not exceeding twelve months as may be prescribed as a school year;

"secondary education" means full-time education suited to the requirements of students of secondary school age;

"student" means a person of any age for whom education is provided under this Act;

"teachers college" means any school or institution established for the purpose of training teachers;

"technical college" or "technical institution" means a school or other institution that provides for studies, training or research in technology, science, commerce or art;

"tertiary education" means

- (a) education suitable to the requirements of persons over compulsory school age who are not enrolled for secondary education in any school or, if enrolled in secondary education, have completed a course of secondary education; and
- (b) college or university education and instruction normally available at institutions for teacher training, vocational training and technological training.

Statement
of purpose.

3. The purpose of this Act is to provide for the orderly and co-ordinated development of a relevant, varied and comprehensive educational system in the Virgin Islands characterised by excellence.

PART 1

ADMINISTRATION OF THE EDUCATION SYSTEM

DIVISION 1

RESPONSIBILITIES AND POWERS OF THE MINISTER

Responsibilities
of the Minister.

4.(1) The Minister is responsible for the overall administration of this Act, and shall, subject to available resources, exercise the powers conferred on him under this Act so as to ensure

- (a) the establishment of a varied, relevant and comprehensive educational system that is characterised by excellence;
- (b) the promotion of the education of the people of the Virgin Islands by the establishment of institutions for the purpose of fostering the spiritual, emotional, cultural, moral, intellectual, physical, social and economic development of the community;
- (c) the framing of an educational policy designed to give effect to the purposes of this Act;

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- (d) the effective execution of the educational policy of the Government; and
 - (e) the establishment of a co-ordinated educational system organised in accordance with this Act.

(2) Without prejudice to the generality of subsection (1) the Minister is responsible to ensure the establishment and pursuit of the goals and objectives that

- (a) encourage the development of the basic knowledge and skills in all persons, including
 - (i) the skills of literacy, listening, speaking, reading, writing, numeracy, mathematics, analysis, problem solving, information processing, and computing;
 - (ii) critical and creative thinking skills for today's world;
 - (iii) an understanding of the role of science and technology in society together with scientific and technological skills;
 - (iv) appreciation and understanding of creative arts;
 - (v) physical development and personal health and fitness; and
 - (vi) the creative use of leisure time;
- (b) develop self-worth through a positive educational environment;
- (c) promote the importance of the family and community;
- (d) provide opportunities to reach maximum potential;
- (e) promote the recognition, understanding and respect for the Constitution, laws and national symbols of the Territory;
- (f) develop an understanding of the principle of gender equality;

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- (g) promote understanding of the history, language, culture, rights and values of the Virgin Islands and their changing role in contemporary society;
 - (h) increase awareness and appreciation of the natural environment of the Territory;
 - (i) promote a Caribbean identity through regional co-operation;
 - (j) develop an understanding of the historical and contemporary role of business and commerce in society;
 - (k) prepare the people of the Virgin Islands for participation in the local and global society.

(3) In addition to the responsibilities referred to in subsections (1) and (2) and the several duties imposed on the Minister under this Act, the Minister is responsible for

- (a) devising a system of education designed as far as possible to ensure that the intellectual and vocational abilities, aptitudes and interests of students find adequate expression and opportunity for development;
- (b) establishing public schools and determining their location and classification;
- (c) making, subject to this Act, provision for the admission and transfer of students in public schools and assisted private schools;
- (d) establishing and maintaining or assisting in the establishment and maintenance of schools, institutions or other facilities for tertiary, adult and continuing education and special education as the Minister considers necessary, including -
 - (i) teachers colleges for the training of teachers; and
 - (ii) technical colleges and training centres considered necessary for fulfilling the

requirements of technological and vocational education;

- (e) taking such other action as the Minister considers necessary for ensuring that the requirements of teachers in public schools are satisfied;
- (f) conducting, managing and assisting schools in accordance with this Act and regulations;
- (g) rendering, to such students or class of students, subject to such conditions as may be prescribed, such forms of assistance as may be necessary for enabling the students to take full advantage of the educational facilities available;
- (h) evaluating the work of public schools and assisted private schools with particular reference to the curriculum to be followed therein, and making provision for the examination and testing of students and the award of certificates;
- (i) the referral of children who have been identified by the Chief Education Officer as having learning difficulties to appropriate medical, educational, social services or other agencies where they exist for remedial treatment or assistance;
- (j) providing educational opportunities for meeting the demands for higher education and in particular taking such steps as may be necessary for the carrying out of the Government's obligation to the Caribbean Examinations Council, the University of the West Indies or any other institution of higher learning; and
- (k) actively encouraging the formation, functioning and development of student councils in all schools and a National Student Council.

Powers of
Minister.

5.(1) For the purpose of the performance of his responsibilities and duties under this Act, the Minister may

- (a) require attendance of persons of compulsory school age at schools established and conducted under this Act;

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- (b) regulate the operation of public schools, assisted private schools, and private schools;
 - (c) make provision for the professional training of teachers for the entire system of education, and lay down standards that are applicable to the recruitment of teachers, their training, professional development and conditions of service;
 - (d) designate the grades or classes and special programmes to be offered in public schools and assisted private schools;
 - (e) prescribe forms and notices as required for the administration of this Act;
 - (f) constitute committees or other bodies to offer advice from time to time on educational and related matters;
 - (g) prescribe lists of textbooks and practices in all public schools and assisted private schools so as to ensure conformity with national standards of education provided that in the case of assisted private schools textbooks for religious education shall be determined by the denomination establishing the school;
 - (h) determine the level of assistance to assisted private schools and regulate such assistance;
 - (i) establish or disestablish public schools including schools for technical education and inaugurate classes or discontinue classes in those schools when necessary;
 - (j) prescribe, in accordance with this Act, curriculum for public schools and assisted private schools; and
 - (k) provide for any other matter or do all such things as may be expedient from time to time for the carrying out of the Minister's responsibilities for education and training.

(2) In the exercise of the powers conferred by subsection (1) (c), (g) and (j), the Minister shall consult such organisations representing the teaching profession as the Minister considers appropriate.

Annual report.

6. The Minister shall table in the Legislative Council an annual report on the state of education within three months of the end of the school year for which the report is made.

DIVISION 2

RESPONSIBILITIES OF THE CHIEF EDUCATION OFFICER

Duties of Chief
Education Officer.

7.(1) The Chief Education Officer is, subject to section 4 and the directions of the Minister, responsible for the general administration of this Act.

- (2) The Chief Education Officer shall
- (a) ensure that schools are administered in a proper and efficient manner;
 - (b) develop administrative principles and procedures for implementing general policies and administering the school system;
 - (c) after prior consultation with the Permanent Secretary, delegate authority to professional staff of the Ministry for administering various aspects of the system of education including the registration and administration of private schools;
 - (d) develop and direct training of all professional personnel;
 - (e) initiate, subject to the provisions of this Act, curriculum innovation and reform and the establishment of appropriate procedures for evaluating the instructional programme of schools and other educational institutions;
 - (f) advise the Minister on matters affecting education in the Territory;
 - (g) ensure that school premises, property and stock are protected against improper use;
 - (h) initiate, organise and conduct courses of induction and training for untrained teachers;

- (i) submit reports on matters relating to the discipline of teachers;
- (j) arrange for the approval of such leave to teachers as may be granted them in accordance with regulations made under section 173;
- (k) consider and assess the confidential reports of teachers;
- (l) furnish such returns as may be prescribed or required;
- (m) ensure the observance of the provisions of this Act and regulations made thereunder pertaining to the conduct of schools and other educational institutions; and
- (n) perform such other duties under this Act as the Minister may from time to time assign to the Chief Education Officer.

Delegation of authority by Minister.

8.(1) The Minister may delegate in writing to the Chief Education Officer any responsibility or duty conferred on the Minister by this Act or regulations, but this does not preclude the Minister from exercising any or all of the duties so delegated where the Minister considers it necessary.

(2) In cases of emergency and after consultation with the Permanent Secretary and the Chief Education Officer, the Minister may give general or special directions in writing to any public officer in the Ministry respecting the Minister's duties under this Act and the public officer shall carry out the Minister's directions.

(3) Where by this Act or any enactment made under this Act the Chief Education Officer is required, or permitted or otherwise to perform any duty, the Chief Education Officer may, with the agreement of the Permanent Secretary, authorise in writing an education officer or another public officer who is accountable to him to perform the duty.

Chief Education Officer accountable to Minister through the Permanent Secretary.

9. Unless specified otherwise in writing by the Minister, the Chief Education Officer shall be accountable to the Minister through the Permanent Secretary of the Ministry for the performance of his duties and the administration of this Act; but this does not preclude the Chief Education Officer from having direct access to the Minister.

DIVISION 3**ESTABLISHMENT AND FUNCTIONS OF THE EDUCATION
ADVISORY BOARD**

Establishment
of Education
Advisory Board.

10.(1) The Minister shall establish a body to be called the Education Advisory Board.

(2) The Education Advisory Board shall consist of at least ten members including

- (a) one representative nominated by the H. Lavity Stoutt Community College;
- (b) five members nominated by the Minister in his discretion from among persons representing
 - (i) expert educational opinion;
 - (ii) parent teacher associations;
 - (iii) technological, vocational or business education;
 - (iv) organisations concerned with community development; and
 - (v) the religious community;
- (c) one representative nominated by the School Principals Conference;
- (d) one representative nominated by the duly recognised organisation representing teachers;
- (e) one representative nominated by the University of the West Indies School of Continuing Studies; and
- (f) one representative nominated by the B.V.I. Chamber of Commerce and Hotel Association.

(3) The representatives nominated by the Minister and the organisations specified in subsection (2) (b), (c), (d) and (f) shall be appointed by the Minister by instrument in writing with the approval of Executive Council.

(4) The Education Advisory Board shall appoint a chairman and a vice-chairman from among its members.

(5) The appointment of a member of the Education Advisory Board shall be for a period not exceeding two years, but the member shall be eligible for reappointment.

First Schedule.

(6) The provisions of the First Schedule shall apply in respect of the constitution and procedure of the Education Advisory Board and otherwise in relation thereto.

Functions of
Advisory Board.

11.(1) The Education Advisory Board shall advise the Minister on matters

- (a) connected with education as it thinks fit;
- (b) respecting the performance of any of his responsibilities or the exercise of his powers under this Act and regulations as the Minister refers to it; and
- (c) relating to the promotion of education as the Minister refers to it.

(2) Any advice given to the Minister, whether accepted by the Minister or not, shall be deemed confidential and so held to be by each member of the Education Advisory Board.

Powers of the
Board to hold
public hearing.

12.(1) Prior to advising the Minister on any matter concerning the promotion of education, the Education Advisory Board may, where it thinks advisable and with the approval of the Minister

- (a) hold a public hearing into the matter;
- (b) appoint one or more members to hold a public hearing into the matter; or
- (c) solicit written memoranda from the public on the matter.

(2) The Minister may require the Education Advisory Board to hold a public hearing respecting any matter affecting the promotion of education and when so required, the Education Advisory Board may adopt the procedure outlined in subsection (1) which it considers most appropriate.

Minister not bound by advice of Board.

13.(1) The Minister is not bound to accept the advice of the Education Advisory Board, and where he considers it advisable, he may refer a matter back to the Education Advisory Board for reconsideration.

(2) Where after reconsideration, pursuant to subsection (1) the Education Advisory Board adheres to the advice it had previously given, the Minister may reject the advice or adopt it either wholly or with such modification, additions or adaptations as he thinks fit.

Special Committees.

14.(1) Notwithstanding section 10, the Minister may appoint such special committees as he considers necessary to advise him with respect to any specific matter that may arise from time to time.

(2) A special committee shall comprise such members as the Minister appoints and has such duties as the Minister specifies.

(3) The Minister may refer any matter to a special committee appointed under subsection (1) notwithstanding that the Education Advisory Board considered or has power to consider that matter.

PART 2

RIGHTS AND RESPONSIBILITIES OF STUDENTS AND PARENTS

DIVISION 1

STUDENTS' RIGHTS AND RESPONSIBILITIES

Right to education.

15. Subject to available resources, all persons are entitled to receive an educational programme appropriate to their needs in accordance with the provisions of this Act and regulations.

Responsibility to students.

16.(1) The Chief Education Officer shall provide to every person of compulsory school age who resides in the Territory an educational programme consistent with the requirements of this Act and regulations.

(2) For the purposes of providing the educational programme to the student, the Chief Education Officer shall -

- (a) enrol the student in an educational programme, offered by a public school;
- (b) direct the student to attend an educational programme offered by another school where it is reasonable to do so.

(3) Except in the case of a student who is transferred under section 58 (1) (d), where a student is directed to attend an educational programme pursuant to subsection (2) (b) the Government is responsible for such fees and costs, if any, consequent to the student's attendance at the educational programme.

Free tuition.

17.(1) Tuition fees consequent to the student's attendance in an educational programme at a public school under section 28 shall not be charged to the student or the parents of the student.

(2) Notwithstanding subsection (1) -

- (a) tuition fees may be payable in such amounts, for such purposes and by such persons or classes of persons who are not citizens of any Member State or Associated Member State of the Caribbean Community as the Minister may prescribe by Order published in the Gazette;
- (b) other charges may be imposed at a public school or assisted private school with the approval of the Minister.

Student responsibilities.

18. Every student enrolled in a public school or assisted private school shall -

- (a) observe the code of conduct and other rules and policies of the Ministry and of the school;
- (b) attend classes regularly and punctually;
- (c) participate in the educational programmes in which the student is enrolled;
- (d) be diligent in pursuing the prescribed curriculum; and
- (e) observe standards approved by the Chief Education Officer or the principal, as the case may be, with respect to -
 - (i) cleanliness and tidiness of the person;
 - (ii) general deportment;
 - (iii) attire;

- (iv) courtesy; and
- (v) respect of the rights of other persons.

Students
accountable to
teacher,
principal and
Ministry.

19.(1) Every student is accountable -

- (a) to the teacher for his conduct on the school premises during school hours and during such hours as the teacher is in charge of the student in class or while engaged in authorised school activities conducted outside of school hours; and
- (b) to the principal for his general deportment and conduct at any time that he is under the supervision of the school and members of the teaching staff, including the time spent in travelling between the school and his place of residence.

(2) Every student shall be under the general direction and control of -

- (a) the driver of a school bus, if the driver is an employee of or on contract with the Ministry; and
- (b) any person under whose supervision students are placed on the authority of the Chief Education Officer,

in respect of the student's general behaviour and deportment on a school bus, or while under supervision, as the case may be.

Rights of the
student.

20. Every student has the right to be treated with respect and dignity and in a fair and reasonable manner.

DIVISION 2

PARENTS' RIGHTS AND RESPONSIBILITIES

Rights and
responsibilities
of parents.

21.(1) Subject to section 23, parents of students attending public schools and assisted private schools are entitled -

- (a) to be informed of the progress, behaviour and attendance of their children;
- (b) upon reasonable notice to the principal and teacher, to observe the instruction of their children if the

parental visitation does not impede the instruction of other children;

- (c) to appeal decisions that significantly affect the education, health or safety of their children; and
- (d) to be consulted in the development of any special education programmes prepared for their children.

(2) A parent of a student attending a school may, and at the request of a teacher or principal shall, consult with the teacher or principal with respect to the student's educational programme or conduct.

(3) Every parent shall inform the principal in writing of any medical or other condition peculiar to their child -

- (a) on admission of the child; or
- (b) as soon as the parent becomes aware of such medical or other condition.

(4) The information provided under subsection (3) shall constitute part of the student's record pursuant to section 23 of this Act.

Choice of education.

22. Subject to the provisions of this Act, parents may choose for their children a home educational programme in accordance with section 89, or any other educational programme provided by a private or public school for their children.

Students' records and reports.

23.(1) Every principal shall establish and maintain a student record for each student enrolled in the school managed by the principal in accordance with the guidelines established by the Chief Education Officer.

(2) Every school shall provide to the parents of a student a periodic or termly report of the student's academic performance and conduct.

(3) The report referred to in subsection (2) shall be in such form and contain such information as the Chief Education Officer may determine.

(4) The following persons may examine and copy a student's record or request a certified copy of a student's record:

- (a) the parents of a student who is below eighteen years of age;

- (b) a student who is eighteen years of age or older; and
- (c) the parents on behalf of a student who is eighteen years of age or older.

(5) Subject to subsection (2), a student's record is privileged for the information and use of school and departmental officials as required for the performance of their functions and is not available to any other person or institution without the written permission of the parent or, where the student is eighteen years of age or older, the student.

(6) Persons who contribute information to a student's record are exempt from any liability with respect to the provision of that information if those persons, in providing the information, acted -

- (a) in good faith;
- (b) within the scope of their duties and responsibilities; and
- (c) with reasonable care.

(7) If, on examining a student's record, a person authorised under this section is of the opinion that the student's record contains inaccurate or incomplete information, that person may request the principal to rectify the record.

(8) Where the principal refuses to rectify the record when so requested under subsection (7), the person who has requested the rectification may, within fourteen days of the refusal, refer the matter to the Chief Education Officer who shall review the request and provide direction to the principal.

(9) Where the person who has referred a matter to the Chief Education Officer under subsection (8) or the relevant principal is dissatisfied with its disposition by the Chief Education Officer, that person or principal may appeal the matter to the Education Appeal Tribunal pursuant to this Act within fourteen days of the disposition.

(10) Any person who discloses information from a student's record in contravention of subsection (5) or tampers with a certified copy of a student's record referred to under this section commits an offence and is liable on summary conviction to a fine of not more than one thousand dollars.

Damage to
school property.

24.(1) Every student in a public school or assisted private school shall take good care of any property placed at the student's disposal and

where such property is to be returned, the property shall be returned in good condition at the end of the school activities on a day and time determined by the principal.

(2) If a student fails to comply with subsection (1), the Chief Education Officer may claim the value of the property from the parents of the student if a minor or from the student if the student is eighteen years of age or over.

(3) If the property of a public school or assisted private school is destroyed, damaged, lost, or converted by the intentional or negligent act -

- (a) of a student who is a minor, the student and the student's parents are liable in respect of the act of the student; or
- (b) of two or more students who are minors acting together, the students and their parents are jointly and severally liable in respect of the act of the students.

(4) If the property of a public school or assisted private school is destroyed, damaged, lost or converted by the intentional or negligent act of one or more students who are eighteen years of age or older -

- (a) the single student is liable in respect of his sole act; and
- (b) the students who acted together are jointly and severally liable in respect of their act.

Parent Teacher Association.

25.(1) Parents and teachers may, in accordance with regulations made under this Act, form associations to be known as Parent Teacher Associations.

(2) The Minister shall encourage and assist in the formation of-

- (a) Parent Teacher Associations; and
- (b) a National Council of Parent Teacher Associations.

(3) Parent Teacher Associations may be established in public and assisted private schools.

(4) The objects of Parent Teacher Associations shall include the promotion of the interests of the school by bringing parents, members of the community, students and teachers into close co-operation.

(5) Parent Teacher Associations may, subject to this Act and regulations, make rules for the regulation and control of their business.

(6) On the formation of a Parent Teacher Association, the names of the members of the executive shall be forwarded to the Chief Education Officer and subsequently after every election of a new executive.

School
Committees.

26.(1) Subject to subsection (2), where a Parent Teacher Association does not exist, the principal, in consultation with his staff, may establish a school committee comprising such number of parents, teachers and members of the community as the principal determines.

(2) A school committee shall not come into existence without the written approval of the Chief Education Officer.

(3) A school committee shall be an advisory committee to the school for which it is established.

(4) A school committee shall -

- (a) advise the school administration when requested by the principal or whenever it considers it necessary on any matter relating to the school;
- (b) perform any duty or function referred to it by the Chief Education Officer; and
- (c) actively pursue the formation of a Parent Teacher Association.

(5) On the formation of a Parent Teacher Association, the principal shall dissolve the school committee forthwith.

Wishes of parents
to be considered
in education of
students.

27. The Minister shall, in the performance of his responsibilities and duties under this Act, have regard to the general principle, that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, the wishes of parents formally conveyed to him are to be considered in the education of students.

DIVISION 3

ADMISSION AND ATTENDANCE OF STUDENTS

Compulsory
school
attendance
and age limit.

28.(1) Every child shall attend school from the first day of the school calendar in the school year following that in which he attains the lower age of the compulsory school age until the last day of the school calendar in the school year in which he attains sixteen years of age or at the end of which he obtains a school leaving certificate or diploma, whichever occurs first.

(2) Notwithstanding subsection (1), if the Minister is satisfied that it has become necessary or expedient to raise or lower the compulsory school age, the Minister may, by Order, subject to affirmative resolution of the Legislative Council within sixty days of the making of the Order, direct that subsection (1) has effect as if for references therein there were substituted a reference to any age prescribed in the Order.

(3) A child shall not be retained as a student in -

- (a) a primary school after attaining the age of fourteen years;
- (b) a secondary school after the end of the school year in which he shall have reached the age of nineteen years,

without the written permission of the Minister.

Mode of
admission.

29.(1) A child shall not be admitted to a primary school unless at the time of such admission -

- (a) the child is accompanied by a parent or a responsible person eighteen years of age or over who has been authorised in writing by a parent to represent him;
- (b) the person accompanying the child brings a birth certificate giving the information required for the Student's Register;
- (c) the child shall have attained the lower age of the compulsory school age or will attain that age within six months of the beginning of the school year; and
- (d) a certificate issued by a registered medical practitioner or the Public Health authorities is

produced indicating that the child has been immunised as may be prescribed by regulations.

(2) A child shall not without the written permission of the Chief Education Officer, be admitted to a primary school other than in September, or the beginning of the primary school year.

Prohibition of discrimination.

30. Subject to the provisions of this Act, a person who is eligible for admission to a public school or an assisted private school as a student shall not be refused admission on any discriminatory grounds including race, place of origin, political opinions, colour, creed, sex, mental or physical handicap.

Age limit for secondary schools.

31.(1) Subject to subsections (2) and (3), a child without the written permission of the Chief Education Officer shall not be admitted as a student to a public secondary school or assisted private secondary school before the child has reached the age of eleven years.

(2) A child below eleven years of age may be admitted to a secondary school on the written approval of the Chief Education Officer on the grounds of exceptional ability and consistently high academic performance as evidenced by -

- (a) outstanding performance in termly and annual class examinations with a Grade A average or its equivalent in each examination;
- (b) the child's assessment results at the key stages as provided for in section 151; and
- (c) the written recommendations of teachers who have taught the child.

(3) A child below eleven years of age who prior to the child's residence in the Territory attended or gained admission to a secondary school or the equivalent of a secondary school may on the written approval of the Chief Education Officer be admitted to a public secondary school or an assisted private secondary school.

(4) A student shall not without the written permission of the Chief Education Officer, be retained in a public secondary school or an assisted private secondary school after the end of the school year in which he shall have reached the age of nineteen years.

Students' Register.

32.(1) The principal of every school shall maintain a register of students which shall be known as the Students' Register.

(2) The Students' Register shall include -

- (a) upon admission of a student to a school -
 - (i) the name, telephone number (if any), address and date of birth of such student;
 - (ii) the date of admission;
 - (iii) the name and residence of the student's parent;
 - (iv) the name of the last school, if any, which the student attended;
 - (v) where appropriate, the date the student left the school from which he transferred as far as it can be ascertained;
 - (vi) the standard, class or form of the student at the date of leaving the school from which he was transferred;
 - (vii) the standard, class or form to which the student is admitted; and
- (b) upon the departure of a student from a school -
 - (i) the date of the student's departure;
 - (ii) the standard, class or form of the student on the date of departure; and
 - (iii) where appropriate, the school or other location to which the student is being transferred.

(3) Notwithstanding subsection (2), the Students' Register shall include such other information as may be prescribed in writing by the Chief Education Officer from time to time.

Transfer of students.

33.(1) Subject to the approval of the Chief Education Officer, a student who seeks admission from one school to another shall not be admitted to that other school except -

- (a) on presentation of a letter of transfer signed by the current principal; and

- (b) after consultation between the current principal and the receiving principal concerning the availability of a place in the receiving school.

(2) A principal shall furnish on request to every student a letter referred to in subsection (1) (a).

(3) Letters of transfer shall be retained by the principal of the admitting school and copies thereof shall be submitted by the principal for information to the Chief Education Officer.

(4) In the event that a dispute arises between two or more principals when a student seeks to transfer from one school to another, the Chief Education Officer shall make a final determination.

Effect of contagious diseases.

34.(1) Subject to section 35, a student suffering from or exposed to a contagious disease shall not be admitted to or permitted to remain in any school.

(2) Where the principal discovers or has reason to suspect the presence of a contagious disease the principal shall immediately report the same to the parents of the student concerned, the Chief Education Officer, and the Director of Health Services.

Readmission of student on production of medical certificate.

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35.(1) A student who has been refused admission to a school on the ground that the student is suffering from or exposed to a contagious disease shall not be re-admitted except upon production of a medical certificate from a medical practitioner registered under the Medical Act to the effect that such student is free from such disease and is unlikely to be a source of infection to other persons in the school.

(2) The medical certificate required by subsection (1) shall be issued free of charge by any Government medical officer issuing the same.

Temporary or permanent closing of schools.

36.(1) Where -

- (a) as a result of the total or partial destruction by hurricane, earthquake, fire, flood or other natural disaster of all or any of the buildings used in connection with any public school or assisted private school; or
- (b) as a result of the outbreak of any infectious or contagious disease; or
- (c) for any other reason,

attendance at any public school or assisted private school has fallen to such extent that in the opinion of the Minister justifies the temporary or permanent closing of the institution, the Minister may, notwithstanding anything contained in this or any other enactment, direct that the school be temporarily or permanently closed, as the case may be, and the school shall, with effect from the date of the direction, be closed.

(2) Where a school is permanently closed, the Minister shall provide an alternative facility for the students affected by the closure.

(3) The powers conferred on the Minister by this section are in addition to any powers conferred upon the Minister in any other enactment.

(4) Without affecting subsection (1), the Minister may delegate to the Chief Education Officer the power conferred on the Minister by that subsection to temporarily close a school referred to in subsection (1).

(5) Notwithstanding subsections (1) and (3), the principal of a school may, in an emergency and where it is impractical to obtain the prior approval of the Minister or Chief Education Officer, close a school temporarily and inform the Minister or Chief Education Officer as soon as practicable thereafter.

Zoning of
schools.

37.(1) The Minister may by Order introduce a scheme of zoning for the admission and transfer of students to public schools and assisted private schools, whether primary or secondary.

(2) The scheme of zoning shall link the place of residence of the student and the location of the school of attendance.

(3) Residency of a student shall be determined by the residency of the student's parents.

DIVISION 4**COMPULSORY SCHOOL ATTENDANCE AND SCHOOL GUIDANCE COUNSELLING**

Duty of parent to enforce attendance.

38. Subject to section 39, the parent of every child of compulsory school age shall ensure that the child receives an education by regular attendance at school.

Valid excuses from attendance.

39.(1) Subject to subsections (2) to (6), a child of compulsory school age shall be excused from school attendance if -

- (a) the Minister is satisfied after consultation with the Chief Education Officer that the child is receiving satisfactory instruction at home or else where;
- (b) the child is excluded from attendance at school under any provision of this Act or regulations;
- (c) the child is unable to attend school because of sickness, danger of infection, infirmity, sudden or serious illness of a parent or other related cause;
- (d) the child is suffering from a physical or mental disability that, in the opinion of a registered medical practitioner, makes the student incapable of being educated by ordinary methods of instruction;
- (e) the child is granted permission by the principal of the school to be temporarily absent from school for good and sufficient reason;
- (f) the child is a participant in observances, celebrations, or activities recognised by a religious denomination;
- (g) the child has been suspended by a school in accordance with the provisions of this Act and has not been given permission to enrol in another school;
- (h) the child is engaged in work experience or other educational programmes authorised or approved by the principal;

- (i) the child is representing the Territory in an educational, cultural or sporting event or in any other official capacity.

(2) The parent of the child of compulsory school age who wishes the child to be exempted from school attendance under subsection (1) (a), (c), (d), (e) and (f) shall apply for a certificate of exemption from such attendance in accordance with subsection (3).

(3) An application under subsection (2) shall be made -

- (a) in the case of paragraphs (a) and (d) to the Chief Education Officer; and
- (b) in the case of paragraphs (c), (e) and (f) to the principal of the school,

and the Chief Education Officer or the principal, as the case may be, may grant or refuse a certificate.

(4) A certificate granted under subsection (3) exempts the child to whom it relates from attendance at school to the extent specified in the certificate.

(5) A parent who is dissatisfied with a refusal under subsection (3) may appeal to the Minister, who may overrule the refusal.

(6) The decision of the Minister on appeal under subsection (5) is final.

(7) Section 47 does not apply in the case of a child with respect to whom a certificate has been granted under this section or to a child who is exempted under subsection (1) (b), (g) or (h).

School attendance officers.

40. The Minister may, by Order, designate school attendance officers to assist in the enforcement of the compulsory attendance provisions of this Act.

Responsibility of school attendance officer.

41. A school attendance officer shall be responsible for the enforcement of compulsory school attendance in respect of all children of compulsory school age within the district or area to which he is assigned.

Power to enter premises and question children.

42. For the purposes of section 41 a school attendance officer who has reasonable cause to believe that a person is in contravention of this Act or regulations and upon presentation of his credentials, may at any time -

-
- (a) enter premises and make such inquiries as are necessary to determine whether section 38 is being complied with or whether anyone is in contravention of sections 47 and 48 in relation to a child of compulsory school age whom the school attendance officer has reasonable cause to believe to be frequenting, visiting, residing or employed on the premises;
 - (b) stop and question any child who appears to be of compulsory school age but is not at school concerning -
 - (i) his age;
 - (ii) his name and address;
 - (iii) the school at which he is registered;
 - (iv) the reason for his absence from school; and
 - (v) any other matter relevant to the inquiries referred to in paragraph (a).

Offences against school attendance officers.

43.(1) A person commits an offence if that person -

- (a) assaults, obstructs, or uses insulting, abusive or indecent language to -
 - (i) a school attendance officer in the execution of his duties; or
 - (ii) any other person executing a duty imposed on that person by this Act or regulations, in relation to the attendance of any child at school;
- (b) being a parent, fails, without reasonable cause, having been requested by a school attendance officer to give any information concerning -
 - (i) the name, age, residence, parent, enrolment and the attendance of any child at school;
 - (ii) any other matter, relevant to the attendance of any child at school; or

- (c) gives to any school attendance officer, knowing it to be false or misleading, any information concerning any matter mentioned in paragraph (b).

(2) Subsection (1) applies, notwithstanding that the child in relation to whom the offence is committed is not of compulsory school age.

(3) A person who is convicted of an offence under subsection (1) is liable on summary conviction to a fine not exceeding one thousand five hundred dollars or to a term of imprisonment not exceeding six months or both.

Power to deliver absent student.

44. A school attendance officer may, at the request of the parent, apprehend and deliver to the school from which he is absent or to his parent, any student found absent from school without having been excused under section 39.

Duties of school attendance officer.

45. A school attendance officer shall -

- (a) report monthly to the Chief Education Officer;
- (b) perform his duties under the direction and supervision of the Chief Education Officer;
- (c) inquire into every suspected case of unlawful failure to attend school within his knowledge or when requested to do so by the Chief Education Officer or the principal of a school;
- (d) give -
- (i) written warning of the consequences of failure to attend school to the parent of the child who is not attending school; and
- (ii) written notice to the parent to cause the child to attend school forthwith; and
- (e) report monthly or whenever necessary to the relevant principals regarding cases of non-attendance reported to him under section 46 (a).

Reports by principals.

46. Every principal of a school shall -

- (a) report in accordance with such regulations as may be prescribed to the school attendance officer, the

names, ages and residences of all children of compulsory school age who have not attended school as required;

- (b) furnish the Chief Education Officer with such other information as the Chief Education Officer requires for the enforcement of compulsory school attendance; and
- (c) report in accordance with section 57 to the Chief Education Officer every case of suspension and expulsion.

Liability of parent.

47.(1) A parent of a child of compulsory school age, who neglects or refuses to cause the child to attend school, unless the child is excused under section 39, commits an offence and is liable on summary conviction to a fine not exceeding one thousand five hundred dollars.

(2) The court may, instead of imposing a fine, require a person convicted of an offence under subsection (1) to enter into a bond not exceeding one thousand five hundred dollars, with one or more sureties to be approved by the court, on condition that the person shall, before the expiration of five days, cause the child to attend school as required.

Compulsory school age and offences.

48.(1) Subject to subsection (3), a person who employs a child of compulsory school age during the school year commits an offence and is liable on summary conviction to a fine not exceeding two thousand five hundred dollars.

(2) If a body corporate contravenes subsection (1), in addition to the said body corporate, every director and officer of the body corporate, who authorises, permits or acquiesces in such contravention commits an offence and is liable on summary conviction to the same penalty as the corporation.

(3) Notwithstanding subsection (1), a person or body corporate may employ a student over fourteen years of age -

- (a) during the vacation period of the school year as specified by the Minister;
- (b) during the school year -
 - (i) on weekends; or

(ii) after school hours during the week for not more than two hours and not beyond 6:00 p.m.; or

(c) if the employment of the student is part of the school programme to prepare students for future employment.

(4) Except with the permission of the principal or under the supervision of a teacher deputed by the principal for the purpose, a child of compulsory school age shall not be admitted, on payment or otherwise, to any cinema show or other similar form of entertainment on any day and at any time at which attendance at school is by this Act or regulations required.

(5) A child of compulsory school age shall not be allowed to loiter on the licensed premises of any person or body corporate who carries on any business in connection with the sale, storage or conveyance of intoxicating liquor within the meaning of the relevant provision of the Liquor Licences Act.

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(6) Any person or body corporate, as the case may be, who contravenes any of the provisions of subsections (4) and (5), commits an offence and is liable on summary conviction to a fine not exceeding two thousand five hundred dollars or to a term of imprisonment not exceeding six months or to both.

Legal
proceedings.

49.(1) Prosecutions under sections 47 and 48 may be instituted by the Chief Education Officer.

(2) In prosecutions under sections 47 and 48 a statement as to the attendance or non-attendance at school of any child, signed or purporting to be signed by the principal of the school, shall be *prima facie* evidence of the facts stated therein.

(3) In any prosecution under this section, a birth certificate or a copy thereof purporting to be certified under the hand of the person in whose custody such records are held is evidence of the age of the person named in the certificate or copy.

(4) In the absence of any certificate or copy mentioned in subsection (3), or in corroboration of any such certificate or copy, the court may receive and act upon any other documents or information relating to age that it considers reliable.

(5) In any prosecution under sections 47 and 48, the court may draw inferences as to the age of a person from the person's appearance,

demeanour or from statements made by the person in direct examination or cross-examination.

Responsibilities of school guidance counsellors.

- 50.** A school guidance counsellor is responsible for -
- (a) supporting the students in enhancing their efforts and ability to learn;
 - (b) guiding students in developing a realistic concept of self and society;
 - (c) counselling students in order to help them resolve or cope constructively with their problems and developmental concerns;
 - (d) consulting, in corroboration with parents, teachers, administrators, school psychologist, social workers, medical professionals and community health personnel, to plan and implement strategies to help students be successful in the education system;
 - (e) assisting in co-ordinating all efforts for helping students and their parents in obtaining required services through referrals between the relevant school and community agency; and
 - (f) assisting students generally in their personal, social, academic and career development.

Referral to counselling.

51. A principal of a school may, in consultation with any teacher he considers relevant or on the recommendation of a teacher, refer a student for counselling to a school guidance counsellor, where in his opinion or in the opinion of the relevant teacher, a student through his behaviour, attitude or demeanour, or failure to diligently pursue the prescribed curriculum, is in need of counselling.

Power to enter premises for counselling purposes.

52.(1) For the purposes of sections 50 and 51 a school guidance counsellor may offer counselling services to students and parents either on school premises or any other premises that he considers suitable including the home of the student or parent.

(2) A school guidance counsellor may enter any premises or home for the purposes of subsection (1).

Offences against school guidance counsellors.

53.(1) A person commits an offence if that person assaults, obstructs, or uses insulting, abusive or indecent language to a school guidance counsellor in the execution of his duties.

(2) A person who is convicted of an offence under subsection (1) is liable on summary conviction to a fine not exceeding one thousand five hundred dollars or to a term of imprisonment not exceeding six months or both.

DIVISION 5

DISCIPLINE, SUSPENSION AND EXPULSION OF STUDENTS

School rules to govern discipline.

54.(1) The Minister may in consultation with the Chief Education Officer prescribe rules to govern the attire, conduct and discipline of students attending a public or an assisted private school.

(2) The rules established under subsection (1) shall be circulated to the parents of the students of the school.

(3) The rules that affect students shall be posted in conspicuous places within the school and shall be brought to the attention of the students of the school at the commencement of each school year.

(4) The rules established pursuant to this section shall be applied without discrimination to all students and shall be consistent with this Act and the regulations.

(5) Any rules of a public school or an assisted private school other than those prescribed under subsection (1), shall not come into effect unless approved by the Chief Education Officer, and shall comply with subsections (2) and (3).

(6) Discipline of students shall be administered in accordance with this Act and the rules prescribed under this section.

Corporal punishment.

55.(1) In the enforcement of discipline in public schools, assisted private schools and private schools degrading or injurious punishment shall not be administered.

(2) Corporal punishment may be administered where no other punishment is considered suitable or effective, and only by the principal or deputy principal and one senior teacher appointed in writing by the principal for that purpose, in a manner that is in conformity with guidelines issued in writing by the Chief Education Officer.

(3) Whenever corporal punishment is administered an entry shall be made in a punishment book that shall be kept in each school for

such purpose with a statement of the nature and extent of the punishment and the reasons for administering it.

(4) A person other than those mentioned in subsection (2) who administers corporal punishment to a student on school premises commits an offence and is liable to a fine not exceeding one thousand dollars on summary conviction.

Suspension for
minor offences.

56.(1) A principal may suspend a student for a period not exceeding two school days for any breach by the student of the duties specified in section 18.

(2) When a student has been suspended, the principal shall -

- (a) make every effort possible to inform the student's parents of the suspension and the reason for it; and
- (b) meet as soon as possible with the student and the parents of the student to review the circumstances surrounding the suspension and to determine appropriate corrective action, which may include counselling for the student and the parents.

(3) If there is no resolution within two school days, the principal shall decide either to reinstate or to suspend the student in accordance with section 57.

Suspension for
major offences.

57.(1) The principal of any public school or assisted private school may suspend a student for a period of more than two days but not exceeding ten school days for -

- (a) gross misconduct that may be considered a risk or danger to members of staff or other students;
- (b) breach of the school rules that imposes a penalty of suspension;
- (c) persistent breach of school rules other than those specified in paragraph (b);
- (d) a refusal by the student to be inspected, examined, immunised or treated by a duly qualified medical practitioner or nurse acting in accordance with any scheme or school health programme in operation in the Territory;

- (e) destroying or damaging without lawful excuse the property of the school;
- (f) assaulting the principal, a member of staff or other employee of the school, a student or any other person lawfully present in the school;
- (g) possession of any article made or adapted for use for causing injury or intended by the student for such use by him or by some other person; and
- (h) possession or use of alcohol, tobacco or illegal drugs and substances.

(2) A student who is suspended under subsection (1) (d) shall only be re-admitted on the production of a medical certificate signed by a duly qualified medical practitioner.

(3) For the purposes of subsections (1) (d) and (2), "duly qualified" in respect of a medical practitioner, means registered under the provisions of the Medical Act 2000.

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(4) When a principal suspends a student under this section the principal shall report in writing to the parents of the student and state the reason or reasons for the suspension and shall submit a copy to the Chief Education Officer and the Board of Management if one exists.

Action by Chief
Education Officer.

58.(1) The Chief Education Officer may, after the receipt of the report under section 57 (4) order, after consultation with the Board of Management if one exists, that -

- (a) the student be placed on a suspension that exceeds ten school days and that ends at the end of the term or semester or school year, whichever occurs first;
- (b) the term of suspension be extended for a specified number of days to enable proper enquiries to be made;
- (c) the student to be reinstated after due investigation and, if the circumstances warrant this, on a date to be fixed by the Chief Education Officer;
- (d) the student be transferred to another school including a special school; or
- (e) the student be expelled.

(2) The parents of a suspended student who is a minor or the representative of a suspended student who is eighteen years of age or over may make representations to the Chief Education Officer with respect to the suspension within seven days of the suspension by the principal.

(3) The Chief Education Officer shall make a decision within ten days of the representations being made to him and the student shall remain suspended during that period.

(4) A student or a parent of a student or the relevant principal may appeal within fourteen days of receipt of a decision by the Chief Education Officer to the Education Appeal Tribunal established pursuant to this Act.

(5) The Chief Education Officer shall inform the student, the parents of the student and the relevant principal of the right of appeal under subsection (4) at the time of notifying them of his decision under subsection (3).

School security officers.

59. The Minister may by Order designate school security officers to assist the principal and teachers of any school, whenever he considers it necessary, in ensuring that students uphold the rules and regulations of the school.

Responsibilities and duties of school security officers.

60.(1) A school security officer is responsible for -

- (a) checking the identification (ID) cards of students upon arrival at school;
- (b) ensuring that students who are out of class after five minutes of the bell having been rung for the completion of one period and the commencement of another have valid reasons or a pass from the principal, assistant principal or relevant teacher for being out of class;
- (c) referring and escorting students without a valid reason for being out of class to the principal, and taking note of such incidents in a log book provided by the school;
- (d) discouraging students from entering the school premises from undesignated areas and leaving campus without permission;

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- (e) ensuring that such incidents referred to under paragraph (d) are immediately reported to the principal;
 - (f) patrolling the school premises as a deterrent to any illegal and immoral conduct, including but not limited to gambling, drug and alcohol use, loitering, sexual misconduct, vandalism, and pranks of a potentially dangerous nature, among others;
 - (g) referring students who are not in proper uniform to the principal or assistant principal;
 - (h) assisting with the parting of fights and any other disturbances on the school premises;
 - (i) finding the relevant facts relating to any incidents referred to under paragraph (h) or any incidents that cause disruption or violate school rules and regulations and referring those findings to the principal; such findings to be noted in a log book provided by the school;
 - (j) reporting any student who is in violation of any school rules or regulations to the principal or assistant principal and taking note of any such violation in the log book provided by the school;
 - (k) assisting with all emergency evacuation exercises; and
 - (l) performing any other duties assigned by the principal or assistant principals of the relevant school and the Chief Education Officer or his designate.

(2) For the purposes of subsection (1), while on school premises, a school security officer shall be directly supervised by and report to the principal of the school or his designate.

(3) A security officer shall not be assigned to duties under this section unless he has successfully completed a programme of training as may be prescribed.

Offences against school security officer.

61.(1) A person commits an offence if that person assaults, obstructs, or uses insulting, abusive or indecent language to a school security officer in the execution of his duties.

(2) A person who is convicted of an offence under subsection (1) is liable on summary conviction to a fine not exceeding one thousand five hundred dollars or to a term of imprisonment not exceeding six months or both.

Power of staff to
restrain student.

62.(1) A member of the staff of a school may use, in relation to any student at the school, such force as is reasonable in the circumstances for the purpose of preventing the student from doing, or continuing to do, any of the following, namely:

- (a) committing any offence;
- (b) causing personal injury to, or damage to the property of, any person (including the student); or
- (c) engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its students, whether that behaviour occurs during a teaching session or otherwise.

(2) Subsection (1) applies where a member of the staff of a school is -

- (a) on the premises of the school; or
- (b) elsewhere at a time when, as a member of its staff, he has lawful control or charge of the student concerned;

but it does not authorise anything to be done in relation to a student that constitutes the giving of corporal punishment within the meaning of section 55.

(3) Subsection (1) shall not be taken to prevent any person from relying on any defence available to him otherwise than by virtue of this section.

(4) In this section and section 63 -

"member of the staff", in relation to a school, means any teacher who works at the school and any other person who, with the authority of the principal, has lawful control or charge of students at the school;

"offence" includes anything that would be an offence, but for the operation of any presumption that a person under a particular age is incapable of committing an offence.

Offences
against staff of
school.

63.(1) A person commits an offence if that person assaults, obstructs, or uses insulting, abusive or indecent language to a member of the staff of a school in the execution of his duties.

(2) A person who is convicted of an offence under subsection (1) is liable on summary conviction to a fine not exceeding one thousand five hundred dollars or to a term of imprisonment not exceeding six months or both.

PART 3

ADMINISTRATION OF SCHOOLS

DIVISION 1

MANAGEMENT OF PUBLIC PRIMARY SCHOOLS

Establishment
and maintenance of
public primary
schools.

64. Primary schools that are public schools may be established and maintained in accordance with this Act and regulations.

Management of
public primary
schools.

65. All primary schools that are public schools shall be under the control of the Minister.

Board of
Management.

66.(1) The Minister may by notice, if the Minister considers it necessary, appoint a Board of Management for any primary school that is a public school where it appears to him to be desirable to do so in the interest of economy, efficiency, and for the participation of the community in the management of education.

(2) Notwithstanding subsection (1), the Minister may appoint one Board of Management to administer more than one primary school if the Minister is satisfied that the general interest of education in the area in which these institutions are situated will be best served by a single Board.

(3) When the Minister exercises his power to appoint one Board to administer more than one primary school under subsection (2), the membership of the Board of Management may exceed the number

prescribed for one Board of Management under section 67 (1), but may not exceed fifteen members and the principals of the relevant schools shall be *ex officio* members of that Board of Management.

Members of a
Board of
Management.

67.(1) A Board of Management appointed under section 66 shall include the following members:

- (a) the principal who shall be an *ex officio* member;
- (b) one member who shall be a representative nominated by the Parent Teacher Association of the school, provided that if no such association exists the Minister may appoint a parent after consultation with the principal;
- (c) one member who shall be a representative nominated by the staff at an authorised staff meeting;
- (d) not less than four members appointed by the Minister acting in his discretion from among persons representing -
 - (i) expert educational opinion;
 - (ii) the religious community;
 - (iii) organisations concerned with business;
 - (iv) organisations concerned with community development; and
 - (v) such other areas of national interest as the Minister considers appropriate.

(2) The persons named in subsection (1) (b), (c) and (d) shall be appointed by the Minister by instrument in writing.

Second Schedule.

(3) The provisions of the Second Schedule shall apply in respect of the procedure and functions of the Board of Management established under subsection (1) and otherwise in relation thereto.

Functions of a Board of Management for a primary school.

68.(1) Subject to subsection (2), a Board of Management appointed under section 66 shall -

- (a) control and manage -
 - (i) the expenditure of any grants for the repair and maintenance of the school;
 - (ii) the rebuilding or extension of the school;
 - (iii) other matters relating to the organisation of the school as may be referred to it by the Minister;
- (b) be responsible for the efficient maintenance of the school under its control and management and for the keeping of the buildings in a good state of repair and sanitation;
- (c) review, modify if necessary, and approve the school plan prepared by the school administration for each school operated by it;
- (d) establish policies for the administration, management and operation of the school including a student attendance policy;
- (e) prepare reports, information, and perform any duties as may be required under this Act, its regulations and guidelines, or by the Minister;
- (f) arrange for the examination and investigation of -
 - (i) student progress;
 - (ii) order among and discipline of students;
 - (iii) the system of instruction;
 - (iv) mode of keeping school records; and
 - (v) conditions of buildings and premises;
- (g) in consultation with the Chief Education Officer and the principal and staff, establish a procedure for resolving disputes between schools, parents and teachers; and

- (h) generally exercise any other function conferred on it by this Act or the regulations.

(2) In the performance of its functions under subsection (1) (a), (b), (c) and (d), the Board of Management shall consult the Chief Education Officer.

Submission of reports, statements and estimates.

69. Every Board of Management shall, after consultation with the principal, submit to the Chief Education Officer -

- (a) within one month after the end of the school year a report containing information on -
- (i) the discipline of students;
 - (ii) the attainment levels of the students;
 - (iii) the application of the curriculum;
 - (iv) the condition of the school and the maintenance of its property;
 - (v) student attendance; and
 - (vi) generally, any matter which directly or indirectly affects the school and its development;
- (b) not later than the 31st day of July in each year, or such later date as the Minister approves in writing, a statement detailing the expenditure of any grant made to the Board of Management; and
- (c) on or before the 31st day of July in each year, its estimate of expenditure for the school under its control in respect of the next financial year for the approval of the Minister.

Special or general directions.

70. Subject to this Act and regulations made thereunder, a Board of Management shall act in accordance with any special or general directions of the Minister concerning the exercise and performance of its functions under this Act.

DIVISION 2**MANAGEMENT OF PUBLIC SECONDARY SCHOOLS**

Application of
Division.

71. This Division shall apply to any public secondary school established under this Act.

Management of
public secondary
schools.

72. Subject to this Act public secondary schools are under the management and control of the Minister.

Establishment of
Board of
Management.

73.(1) The Minister may by notice, if the Minister considers it necessary, appoint a Board of Management for each public secondary school established under this Act where it appears to the Minister to be desirable to do so in the interest of economy, efficiency, and for the participation of the community in the management of education.

(2) Notwithstanding subsection (1), the Minister may appoint one Board of Management to administer more than one secondary school if the Minister is satisfied that the general interest of education in the area in which these schools are situated will be best served by a single Board.

(3) A Board of Management appointed under subsection (1) shall include the following members:

- (a) the principal who shall be an *ex officio* member;
- (b) one member who shall be a representative nominated by the Parent Teacher Association of the school provided that if no such association exists, the Minister may appoint a parent after consultation with the principal;
- (c) one member who shall be a representative nominated by the staff at an authorised staff meeting;
- (d) not less than five members appointed by the Minister acting in his discretion from among persons representing -
 - (i) expert educational opinion;
 - (ii) the religious community;
 - (iii) organisations concerned with business;

- (iv) organisations concerned with community development; and
- (v) such other areas of national interest as the Minister considers appropriate;
- (e) one member elected by the student council, if one exists.

(4) The persons named in subsection (3) (b), (c) and (d) shall be appointed by the Minister by instrument in writing.

(5) When the Minister exercises his power to appoint one Board to administer more than one secondary school under subsection (2), the membership of the Board of Management may exceed the number prescribed for one Board of Management under subsection (3), but may not exceed fifteen members and the principals of the relevant schools shall be *ex officio* members of that Board of Management

Second Schedule.

(6) The provisions of the Second Schedule shall apply in respect of the procedure and functions of a Board of Management established under subsection (1) and otherwise in relation thereto.

Functions of Board of Management for secondary schools.

74.(1) Subject to subsection (2), the functions of a Board of Management in relation to the school for which it is established are -

- (a) to be responsible to the Minister for the management, control, operation and maintenance of the school;
- (b) to receive, disburse and account for the expenditure of such sums as may from time to time be allocated to it by the Ministry for the operation of such school;
- (c) to review, modify if necessary, and approve the school plan prepared by the school administration for each school operated by it;
- (d) to establish policies for the administration, management and operation of its schools, including a student attendance policy;
- (e) to prepare reports, provide information, and perform any duties as may be required under this Act, its regulations and guidelines, or by the Minister;

-
- (f) to arrange for the examination and investigation of -
 - (i) student progress;
 - (ii) order among and discipline of students;
 - (iii) the system of instruction;
 - (iv) mode of keeping school records; and
 - (v) conditions of buildings and premises;
 - (g) in consultation with the Chief Education Officer and the principal and staff, establish a procedure for resolving disputes between schools, parents and teachers;
 - (h) to make recommendations to the Minister with regard to any matter directly or indirectly affecting the school or the development of secondary education generally;
 - (i) to appoint where necessary committees consisting wholly or partly of members of the Board of Management; and
 - (j) to perform such other functions in relation to the school as the Minister requires or as may be prescribed by this Act or regulations.

(2) In the performance of its functions under subsection (1) (a), (c) and (d), the Board of Management shall consult the Chief Education Officer.

(3) For the purpose of performing its function under subsection (1) (b) the Board of Management shall appoint an Accounting Officer who shall be paid from the funds received from the Ministry under subsection (1) (b).

Funds and resources of a Board of Management.

- 75.** The funds and resources of a Board of Management are -
- (a) moneys allocated for the purposes of the Board of Management by the Ministry;
 - (b) moneys or property payable to or vested in the Board of Management in respect of any matter incidental to their functions;

- (c) moneys derived from fund-raising activities; and
- (d) moneys and other property derived by way of gift, bequest, trust, or donation, or in any other manner.

Accounts and
audit.

76.(1) Every Board of Management established pursuant to sections 66 and 73 shall keep proper accounts of its transactions, and the accounts shall be audited annually by the Auditor General or any person authorised by him in that behalf.

(2) The Auditor General shall, at the request of the Minister or on his own initiative, carry out at any time an investigation into or a special audit of the accounts of a Board of Management.

(3) The members and employees of a Board of Management shall -

- (a) grant to the Auditor General or any authorised member of the staff of the Auditor General referred to in subsection (1), access to all books, documents, money and property of the Board; and
- (b) give to any person referred to in paragraph (a) such information as might be within the knowledge of the members and employees of the Board of Management in relation to the operation of the Board of Management.

Annual report,
statement of
accounts of
estimates.

77.(1) Every Board of Management under this Division shall, after consultation with the principal, submit to the Minister -

- (a) a report in accordance with section 69;
- (b) not later than the 31st day of August in each year, or such later date as the Minister approves, a statement of its accounts, audited in accordance with section 76, for the financial year ending that year; and
- (c) on or before the 31st day of July in each year, its estimates of revenue and expenditure in respect of the next financial year for the approval of the Minister.

(2) The Minister shall, within six months of receiving the documents referred to in subsection (1) (a) and (b), cause copies thereof to be laid in the Legislative Council.

Minutes of Board receivable in evidence.

78. Minutes of meetings of any Board of Management established pursuant to sections 66 and 73 are, if duly signed by the chairman, or deputy chairman, receivable in evidence in all legal proceedings without further proof and every meeting of a Board of Management in respect of which minutes have been signed shall be deemed to have been duly convened and held, and all members present at the meeting shall be deemed to have been duly qualified to act.

DIVISION 3

MANAGEMENT OF ASSISTED PRIVATE SCHOOLS

Management of assisted private primary schools.

79.(1) Every primary school that is an assisted private school shall be administered by a Board of Management appointed by the Minister, which shall consist of not more than nine persons appointed as follows:

- (a) four persons including the chairman nominated by the proprietor or denomination which owns the school;
- (b) the principal of the school who shall be an *ex officio* member;
- (c) one member nominated by the academic staff from among its members;
- (d) one member nominated by a recognised local community group;
- (e) one member nominated by the Minister; and
- (f) one parent nominated by the Parent Teacher Association where such an association exists.

(2) The quorum shall be four members and shall include the chairman or the vice-chairman of the Board of Management.

Management of assisted private secondary schools.

80.(1) Every secondary school that is an assisted private school shall be administered by a Board of Management of not more than twelve members appointed by the Minister in the following manner:

- (a) three members including the chairman nominated by the proprietor or denomination which owns the school;

- (b) the principal of the school who shall be an *ex officio* member;
- (c) one member nominated by the Minister;
- (d) two members nominated in the following manner:
 - (i) one by the academic staff; and
 - (ii) one by the student council;
- (e) two members nominated as follows:
 - (i) one by the *alumni* of the school;
 - (ii) one by the Parent Teacher Association where such an association exists; and
- (f) three members nominated by the Board of Management for their particular expertise.

(2) The quorum shall be five members and shall include the chairman or vice-chairman of the Board of Management.

(3) The procedure of a Board of Management established under sections 79 and 80 is set out in the Second Schedule and otherwise in relation thereto.

Second Schedule.

Denomination or proprietor may add duties.

81.(1) In addition to the functions conferred by the denomination or the proprietors of an assisted private school, a Board of Management established under sections 79 and 80 shall -

- (a) if the school for which the Board of Management is established is a primary school, perform the functions established under section 68; and
- (b) if the school for which the Board of Management is appointed is a secondary school, perform the functions established under section 74.

(2) The proprietor of a denominational school that has become an assisted private school, whether primary or secondary, shall not direct, request or encourage the Board of Management established under sections 79 and 80 to perform functions and duties inconsistent with the provisions of this Act or regulations.

Appointment of
joint Board of
Management.

82.(1) Notwithstanding sections 79 and 80, the Minister may appoint a Board of Management to administer more than one assisted private school if -

- (a) these assisted private schools have the same proprietors;
- (b) the proprietors agree to the appointment of a Board of Management;
- (c) the proprietors agree to the composition of the membership of the Board of Management under subsection (2); and
- (d) the Minister is satisfied that the general interest of education in the area in which these assisted private schools are situated will be best served by a single Board of Management.

(2) Where a Board of Management is appointed to administer more than one assisted private school, the membership of that Board of Management may exceed the number prescribed for one Board of Management, and in the appointment of additional members consideration shall be given to the different categories of persons to be represented on the Board of Management.

DIVISION 4

MANAGEMENT OF TERTIARY INSTITUTIONS

Establishment
and management
of tertiary
institution.

83.(1) The Minister may establish and maintain, in accordance with this Act and regulations, colleges, technical institutions, universities, and any other institution of higher education at such places as the Minister may determine.

(2) A technical institution or other tertiary institution may be established as a department or part of a public secondary school.

(3) Where a tertiary institution is independently established the Minister may by Order provide for -

- (a) its curriculum;
- (b) the criteria for admission of students;

- (c) the payment of fees;
- (d) the appointment of the staff, including their terms and conditions of employment;
- (e) its management;
- (f) regulations regarding the -
 - (i) professional behaviour of instructors, lecturers and tutors; and
 - (ii) conduct and discipline of students and trainees.

PART 4

THE STAGES AND FORMS OF EDUCATION

DIVISION 1

STAGES AND FORMS

Stages and forms of public education.

84.(1) Subject to subsection (2), the system of public education shall be in the following stages:

- (a) primary education;
- (b) secondary education; and
- (c) tertiary education.

(2) The Minister may, as resources permit, include as part of the system of public education -

- (a) early childhood education;
- (b) education to meet the requirements of students who are gifted or have exceptional ability;
- (c) special education in accordance with the provisions of this Act;
- (d) adult and continuing education; and

- (e) distance education.

DIVISION 2

EARLY CHILDHOOD EDUCATION SERVICES

Establishment of early childhood education services.

85.(1) Subject to satisfying the provisions of Division 2 of Part 5, a private school specified in section 99 may provide an Early Childhood Education Services Programme suitable to the needs of children under five years of age.

(2) A private school that provides early childhood education services may charge the parents of children attending the programme fees in respect of the programme.

Programmes and policies.

86. A private school offering early childhood education services shall develop and maintain policies and programmes consistent with the early childhood education services, policies, programmes and plans prescribed by the Minister.

Council on early childhood education services.

87.(1) The Minister may, when the Minister considers it necessary, establish a Council on Early Childhood Education to advise him on policies to guide the implementation of this Division.

(2) Where a Council on Early Childhood Education is established, the Minister may by Order provide for its -

- (a) membership;
- (b) procedures for the conduct of its business; and
- (c) powers and functions.

Regulations.

88.(1) The Minister may make regulations generally for the proper carrying out of the purposes of this Division.

(2) Without limiting subsection (1), the Minister may make regulations -

-
- (a) prescribing the academic and professional qualifications of teachers or other persons employed in early childhood education services;
 - (b) respecting the records to be submitted to the Minister by a private school engaged in early childhood education services;
 - (c) concerning the safety standards that shall be satisfied by a private school;
 - (d) respecting the health requirements of the environment and of the persons employed in early childhood education services;
 - (e) concerning the buildings, premises, equipment and furnishings to be used in delivering early childhood education services;
 - (f) prescribing the ratio of staff to students required by the private school;
 - (g) respecting the needs of children of specified ages attending the programme offered by the private school;
 - (h) respecting teacher training and curriculum development; and
 - (i) respecting the need for insurance or some other form of indemnification.

DIVISION 3

HOME EDUCATION

Home education.

89.(1) A parent of a student may provide, at home, a home education programme for the student if the parent complies with this section and the programme meets the goals and objectives outlined in section 4 (2).

(2) The parent shall, prior to the commencement of a home education programme for the student and on an annual basis thereafter for as long as the home education programme is offered, register the student with the Chief Education Officer.

(3) An educational plan for each student who is receiving home education shall be prepared and provided to the Chief Education Officer subject to the following conditions:

- (a) the initial educational plan shall be prepared and provided to the Chief Education Officer three months prior to the commencement of the home education programme;
- (b) the educational plan shall be for a minimum period of three school years and shall cover every year of the home education programme;
- (c) the educational plan shall include a description of the learning activities for the student that will comply with the goals and objectives set out in section 4 (2); and
- (d) the educational plan shall be based on the national curriculum as established by the Minister under Part 8.

(4) The parent of a home education student may request that tests be administered to the student subject to the requirements of the regulations and to payment of fees prescribed by the regulations for any tests that are administered.

(5) A student in a home education programme may attend courses offered by the Ministry subject to any terms and conditions established by the regulations.

(6) Subject to regulations made under this Act, the parent of a home education student may receive, for the student, educational resource materials and use of school facilities and equipment.

(7) For the purposes of this Division, the Chief Education Officer shall -

- (a) provide for the assessment of the student's achievement on a regular basis and communicate the results to the parent;
- (b) advise the parent if, in the opinion of the Chief Education Officer, the student is not making reasonable progress in the programme; and

- (c) provide the parent with recommendations that will assist the student in improving the level of achievement.

Termination of programme.

90.(1) Notwithstanding section 89 (1), the Chief Education Officer shall, in writing, terminate the home education programme if the Chief Education Officer is of the opinion, after considering the abilities of the student, that -

- (a) the home education programme no longer meets the requirements of section 4 (2); or
- (b) the student has failed to meet standards of student achievement, as measured by achievement testing, comparable to those of students in public schools.

(2) The Chief Education Officer shall, in conjunction with the notice of termination, direct the student to attend a school established by or registered under this Act effective on the date specified in the notice of termination.

(3) Where the parent disagrees with the decision of the Chief Education Officer made under subsection (1), the parent may appeal to the Education Appeal Tribunal established pursuant to this Act within fourteen days of the decision and the decision of the Tribunal shall be final.

DIVISION 4

SPECIAL EDUCATION

Special education.

91.(1) The Chief Education Officer is responsible for providing special education programmes for students of compulsory school age who by virtue of intellectual, communicative, behavioural, physical or multiple exceptionalities are in need of special education.

(2) A student who is entitled to a special education programme shall have the programme delivered in the least restrictive and most enabling environment to the extent that resources permit and it is considered practicable by the Chief Education Officer in consultation with professional staff of the school and the Ministry and the parents, having due regard for the educational needs and rights of all students.

(3) A special education programme may take the form of an individual education plan in that the plan is tailored to the specific or individual needs of the student.

(4) Where it has been determined that a student eighteen years of age or older requires an individual education plan, the costs of developing, providing and maintaining that plan may be apportioned between the student or the parent of the student, as the case may be, and the Ministry in such manner as may be prescribed by regulations.

Determination
of special
educational
needs.

92.(1) Where a determination cannot be made under subsection (2), the following procedures shall be followed:

- (a) the student shall be referred to the Chief Education Officer for a determination of the assessments that may be required to be performed;
- (b) the parent of the student shall receive written information concerning the procedures outlined in this section;
- (c) prior written informed consent by a parent for the administration to the student of the psychological and other specialised tests that are not routinely used by teachers shall be obtained;
- (d) where possible, the assessment shall be multi-disciplinary;
- (e) the results of the assessment reports shall be provided and explained to the parent;
- (f) a parent and, where appropriate, the student shall be consulted prior to the determination of and during the implementation of the special education programme; and
- (g) the parents shall be provided with information concerning the right of appeal to the Education Appeal Tribunal.

(2) The principal in consultation with professional staff and parents or, where a child is not in attendance at a school, the Chief Education Officer, in consultation with professional staff and parents, shall determine whether a student is a student with special educational needs, and if so, what special education programme is appropriate to meet the needs of that student.

(3) Parents may, in writing addressed to the Chief Education Officer, request for their children a determination in accordance with this section.

(4) A principal may invite a parent to be a member of a school based team that is established for the provision of a special education programme for a student.

(5) The school based team referred to in subsection (4), shall comprise persons selected on the basis of their expertise by the principal of a school to advise on a programme specified to the needs of a particular student or group of students.

(6) Where there is more than one parent for a child, consultation with one parent shall be deemed to be compliance with any consultation requirements of this section; and where legal custody rests with one parent consultation shall be with that parent.

Special needs
appeals.

93.(1) If a disagreement arises respecting a decision concerning -

- (a) the identification of a student as a student with special educational needs;
- (b) the individual education plan established for a student;
- (c) a request by a parent for a determination pursuant to section 92 (3);
- (d) the implementation of the individual education plan in an environment other than the regular class;
- (e) the non-implementation of an individual education plan in a school where the student would normally attend; or
- (f) the apportionment of costs, between the Ministry and the parents of the student for the provision of an individual education plan,

the parent, student, or Board of Management may, within fourteen days of the decision, appeal the matter to the Education Appeal Tribunal established pursuant to this Act.

(2) A decision under subsection (1), shall be communicated in writing to the parents, student or Board of Management, as the case may be.

(3) When an appeal is made to the Education Appeal Tribunal, the student shall be enrolled in the programme determined in accordance with section 92 until the Education Appeal Tribunal makes its decision.

Council on
Special
Education.

94.(1) The Minister may establish a Council on Special Education to advise him on guidelines for the implementation of this Division.

(2) Where a Council on Special Education is established the Minister may by Order provide for its -

- (a) membership;
- (b) procedures for its business; and
- (c) powers and functions.

PART 5

CATEGORIES OF SCHOOLS

Organisation
of schools.

95. For the purposes of this Act, the school system shall be organised in the following categories:

- (a) public schools;
- (b) private schools;
- (c) assisted private schools; and
- (d) denominational schools.

DIVISION 1

PUBLIC SCHOOLS

Status of
public schools.

96. All public schools existing at the commencement of this Act shall be deemed to have been established by this Act and shall continue as public schools under this Act.

DIVISION 2

PRIVATE SCHOOLS

Interpretation.

97. The words "school" or "institution" where used in this Division to refer to the subject of rights or obligations, mean the person operating the school or institution to which the provision concerned applies.

Body without legal personality.

98.(1) In the case of a body not endowed with legal personality, the provisions of this Act shall apply as if the body were endowed with legal personality.

(2) The obligation to comply with the provisions of this Act lies with the persons responsible for the administration of the body.

(3) In the case of a school or an institution established by partnership, the obligation lies with both the partnership and the partners.

Applicability.

99. This Act applies to every private school dispensing all or some of the educational services belonging to one or more of the following categories:

- (a) early childhood educational services;
- (b) primary school education;
- (c) organisations, schools or other institutions providing special education;
- (d) secondary school education;
- (e) secondary school instructional services in vocational education;
- (f) secondary school adult education services;
- (g) secondary school adult education services in vocational education;
- (h) instructional services in general education at the tertiary level; and
- (i) instructional services in vocational training at the tertiary level.

References and object.

100.(1) Section 99 (a) to (d), (f) and (h) refers to education or instruction intended mainly to develop students' abilities in subjects

preparing them for studies at the primary, secondary, post-secondary, tertiary or university level, as the case may be.

(2) Section 99 (e), (g), and (i) refers to vocational education or vocational training which is intended mainly to develop students' abilities so as to prepare them for an occupation, a trade or a profession.

Permit.

101.(1) Subject to section 103, a person may not operate a private school to which this Act applies unless that person is the holder of a permit issued by the Minister, for the school and the educational services or categories of educational services mentioned in section 99.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding six months, and, in the case of a continuing offence is liable to a further fine not exceeding two hundred dollars for each day during which the offence continues after the first conviction.

Presumption.

102. Any person or body dispensing for profit or non-profit purposes, educational services for his own account and in the case of a body for its own account, shall be deemed to be operating a private school.

Existing private schools.

103.(1) A person who, at the commencement of this Act, is keeping a private school, shall, within one year of the commencement of this Act or of such further period as the Minister may by notice allow, comply with section 101.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding six months, and, in the case of a continuing offence is liable to a further fine not exceeding two hundred dollars for each day during which the offence continues after the first conviction.

Private schools register.

104.(1) The Chief Education Officer shall keep in such manner as may be prescribed, a register of private schools to be known as the Private Schools Register, in which shall be entered the particulars of every private school in respect of which a permit has been issued by the Minister.

(2) The Chief Education Officer shall annually certify a copy of the Private Schools Register and the copy so certified shall be published in the Gazette on such date as the Minister may determine.

(3) The Chief Education Officer shall certify any amendment to the Register and the amendment shall be published in the Gazette.

Application for registration.

105.(1) An application for a permit to establish a private school shall be made in the prescribed form by or on behalf of the proprietor of the private school and shall contain the prescribed information.

(2) The Minister shall, upon the receipt of an application made in accordance with subsection (1) cause the private school to be inspected.

Requirements
for registration.

106. Where a private school in respect of which an application is made under section 105 has been inspected, the Minister shall, subject to any condition that the Minister may specify, cause the school to be registered if the Minister is satisfied that -

- (a) the premises are suitable for the activities intended by the private school;
- (b) the furniture is adequate and suitable having regard to the number and ages of the students attending the private school;
- (c) the accommodation provided is adequate and suitable having regard to the number, ages and sex of the students attending the private school;
- (d) efficient and suitable instruction equivalent to that provided in an equivalent public school is being or will be provided at the private school having regard to the ages and sex of the students attending the school;
- (e) the code of conduct and rules of the school are comparable to those established for public schools and assisted private schools;
- (f) there is adequate land for the recreation of the students;
- (g) the proprietor or principal has not been convicted of or pleaded guilty to, an offence under this Act, or a criminal offence committed in relation to the operation of a private school in the three years preceding the application;
- (h) that the private school will have at its disposal the adequate human and material resources required for dispensing the educational services for which the permit is issued and sufficient financial resources for that purpose; and

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- (i) the applicant is a fit and proper person and has paid the fee fixed by regulations.
- Refusal.
- 107.**(1)The Minister may refuse to issue a permit if, during the three years preceding the application, a permit held by the applicant was revoked.
- (2)Where an application for a permit to establish a private school has been refused, the applicant shall be notified in writing -
- (a) of the refusal and of the reasons for refusal; and
- (b) of his right of appeal under section 119.
- Limitation on instruction.
- 108.** Notwithstanding section 101, the Minister may refuse to issue a permit authorising, in a primary school or in general education at the secondary school level, instructions limited to certain subjects or classes, or the Minister may subject the issue of such a permit to the conditions that he determines.
- Number of students.
- 109.**(1)The Minister may determine the maximum number of students who may be admitted to educational services or categories of educational services provided by the private school.
- (2)The capacity of the facilities at the disposal of a school is the capacity determined by the applicant for a permit and approved by the Minister.
- (3)Where the applicant fails to determine such capacity, the Minister may refuse to issue the permit.
- Content of permit.
- 110.** The permit to establish a private school shall state -
- (a) the name of the proprietor who shall be the holder;
- (b) the name and address of the school;
- (c) the address of the buildings or premises at its disposal;
- (d) the educational services or categories of educational services the institution is authorised to dispense;
- (e) where applicable, the authorisations and conditions determined under sections 106, 108 and 109; and

- (f) the maximum number of students who may be admitted under section 109.

Vocational education.

111. In respect of vocational education, the permit to establish a private school shall specify, where it concerns -

- (a) secondary school instructional services in vocational education or adult vocational education, the vocational education programmes that the school is authorised to dispense;
- (b) supplementary vocational training, the fields for which the permit is granted; or
- (c) general or vocational education at the tertiary level, the programmes that the school is authorised to dispense.

Duration and renewal of permits.

112.(1) On first issuance, a permit is valid for a period of three years.

(2) The Minister shall renew for five years, and subsequently for the same period, a permit held by a person who -

- (a) applies therefor in writing to the Minister within the time limit prescribed by regulations and furnishes, within that time limit, the information and documents prescribed by such regulations;
- (b) meets the conditions set out in section 106; and
- (c) has complied with the provisions of this Act and its regulations for the period of validity preceding the renewal.

(3) Notwithstanding subsections (1) and (2), the Minister may issue or renew a permit for a different period or without a date of expiry where the Minister on the approval of the Executive Council considers it expedient.

Modification.

113.(1) The Minister may, at the request of a permit holder, modify the permit upon payment of the fees fixed by regulations.

(2) To modify the educational services mentioned in a permit, the holder shall meet the conditions for the issue of a permit that apply to the educational services for which the request is made.

Transfer. **114.** A permit may not be transferred except with the written authorisation of the Minister.

Information. **115.(1)**The holder of a permit shall inform the Minister -

- (a) of any change that renders the information provided for the issue, renewal or modification of a permit inaccurate or incomplete;
- (b) whenever the school or institution fails to provide all or some of the educational services mentioned in its permit.

(2) Every legal person or body holding a permit shall inform the Minister of any amalgamation, sale, charge or transfer affecting it, as well as of any change in the name of the school or institution.

Visits to private schools.

116.(1)The Minister or the Chief Education Officer or any other person authorised in writing by the Minister or the Chief Education Officer may for the purpose of making enquiries, carrying out inspections and discharging such other duties as are imposed on him by this Act or regulations, enter the premises of any private school during the hours of operation of that school.

(2) The proprietor of a private school shall during school hours, keep the school open to visits by the persons mentioned in subsection (1).

(3) A person who in respect of any person specified under subsection (1) -

- (a) obstructs that person in the performance of his duties;
- (b) makes a false representation to that person; or
- (c) refuses to furnish any information which that person may require under this Act or regulations,

commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

Notice to comply.

117. Where the Minister is satisfied that a private school registered under this Act has ceased to be conducted in accordance with this Act or regulations, the Minister may serve on the proprietor of the school a notice of that fact, requiring him within the time specified in the

notice to conduct the school in accordance with this Act or regulations, as the case may be.

Cancellation of registration.

118. Where a proprietor who is served with a notice under section 117 fails, within the time specified in the notice or within such further time as the Minister allows, to comply with the notice, the Minister shall -

- (a) cancel the permit and the registration of the private school; and
- (b) in writing inform the proprietor -
 - (i) that the permit has been revoked and the registration has been cancelled and of the reasons for the revocation and cancellation; and
 - (ii) of his right to appeal under section 119.

Appeal.

119.(1)The proprietor of a private school who is refused a permit and registration pursuant to sections 106 and 107 or whose registration is cancelled under section 118 (a) may, within thirty days of being notified of the refusal or cancellation, appeal to the Education Appeal Tribunal established pursuant to this Act against the refusal or cancellation, as the case may be.

(2)In the case of a refusal, a proprietor may appeal on any of the following grounds:

- (a) that the reasons given for the decision do not disclose any failure to meet any of the requirements for registration set out in section 106;
- (b) that the inspection of the school carried out pursuant to section 105 (2) was not adequate for determining whether the school meets the requirements set out in section 106; or
- (c) that there is no evidence available to support the decision.

(3)In case of a cancellation, a proprietor may appeal on any of the following grounds:

- (a) that no notice was served on the proprietor under section 117;

- (b) that the time specified in the notice served under section 117 or the further time allowed to the proprietor under section 118 to comply with the notice is unreasonable;
- (c) that the proprietor has complied with the notice served under section 117; or
- (d) that there is no evidence available to support the decision.

(4) Where an appeal is brought under this section against a cancellation of registration or a refusal to grant a permit, the Minister may not enforce the refusal or cancellation until the appeal is determined or withdrawn.

(5) The determination of an appeal by the Education Appeal Tribunal shall be final and binding upon the parties to any such decision.

(6) Where an appeal is dismissed or withdrawn, cancellation of the registration of the private school shall take effect from the date of the making of the order by the Education Appeal Tribunal dismissing the appeal, or the date of withdrawal of the appeal.

Registration and closure.

120.(1) Where the registration of a private school is cancelled pursuant to section 118, the proprietor of the school may, if the proprietor has complied with the notice served on him under section 117, apply to the Minister for the re-registration of the school.

(2) The requirements of section 106 shall apply to an application under subsection (1).

(3) From the date on which the cancellation of the registration of a private school takes effect, the school shall remain closed until it is re-registered.

(4) Where the Minister is satisfied that the notice served under section 117 has been complied with, the Minister may re-register the private school subject to any condition which the Minister may specify.

Returns.

121. The proprietor of a private school shall furnish the Minister with returns in the manner and containing the information required by this Act and regulations.

Health and sanitation.

122.(1) The Public Health Department shall require the same health and sanitary arrangements for private schools as are required for public schools and assisted private schools.

(2) The Minister may, on the advice of the Director of Health Services, require the closure of any private school or classroom at the school, or the exclusion of certain students for a specified time with a view to preventing the spread of disease or any danger to health.

Disqualification of teachers.

123.(1) A teacher employed in a private school shall possess at least the minimum qualifications required of a teacher employed in an equivalent public school.

(2) The Chief Education Officer may declare any person who does not possess the minimum qualification required under subsection (1) to be unfit for employment as a teacher in a private school and that person shall not be so employed.

(3) An appeal from a decision of the Chief Education Officer made pursuant to subsection (2) shall lie to the Education Appeal Tribunal established pursuant to this Act within fourteen days of the decision.

(4) The decision of the Education Appeal Tribunal shall be final and binding on the parties to any such decision.

Prohibition of discrimination.

124. A private school that denies admission to a child or expels a student on account of the race, political affiliation, place of origin, colour or creed of the parents of the student commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

DIVISION 3

ASSISTED PRIVATE SCHOOLS

Creation of assisted private schools.

125. Subject to section 126, an assisted private school is either -

- (a) a school whose property is owned by a private proprietor, denominational body, a trust, an individual or any incorporated or unincorporated body and which has agreed to receive public funds for one or more of the following purposes:
 - (i) maintenance of the school;
 - (ii) provision of school furniture or equipment;

- (iii) the building of an extension to the school or the rebuilding thereof;
 - (iv) payment of the salaries of the staff; and
 - (v) any other purpose approved by the Minister; or
- (b) a school whose property is jointly owned by the Crown and a private proprietor or a denominational body -
- (i) and the management is jointly shared between the Minister and the private proprietor or denominational body; and
 - (ii) is in receipt of public funds for any of the purposes specified in paragraph (a); or
- (c) a school that is owned by the Crown and the Minister agrees that it should become an assisted private school for the purposes of its management.

Agreement to establish assisted private schools.

126.(1) An assisted private school comes into existence by mutual agreement between the Minister and the proprietor of the school.

(2) An agreement under subsection (1) shall -

- (a) be in writing;
- (b) exist for one or more schools;
- (c) be for a period of years; and
- (d) subject to this Act and regulations, specify the terms, conditions, the rights, responsibilities and liabilities of the respective parties.

(3) Any party to the agreement may terminate the agreement by giving the other at least three years notice.

Publication of list of assisted private schools.

127.(1) The Minister shall publish in the Gazette by the 31st day of July of each year, a list of all assisted private schools and shall cause the list to be circulated to all public and assisted private schools.

(2) Where the Minister and the proprietor of a private school agree, a list published by virtue of subsection (1) shall detail the respective

rights, responsibilities and obligations of the Government and the assisted private school.

Religious education in assisted private schools.

128.(1) Subject to subsection (2) where an assisted private school is owned or managed by a denominational body, the denominational body shall be responsible for organising and providing religious instruction or education to students that belong to its religious faith in accordance with a curriculum prescribed by that body.

(2) Where an assisted private school admits students who do not subscribe to the religious beliefs of the denominational school, no student, except with his own consent or, if he is a person under the age of eighteen years, the consent of his parent, shall be compelled or be required to receive religious education or instruction or take part in or attend any religious ceremony or observance prescribed under subsection (1).

Grants to assisted private schools.

129.(1) Where the proprietor or the Board of Management of any assisted private school requires financial assistance for the purpose of improving or extending the buildings of the assisted private school or erecting a new school in substitution for any discontinued assisted private school, the proprietor or the Board of Management may apply to the Minister for a grant from the Government.

(2) If upon consideration of an application for financial assistance under this section, the Minister is satisfied that the purpose for which the assistance is required ought to be carried out, the Minister may arrange to obtain a grant from the Government for that purpose.

DIVISION 4

DENOMINATIONAL SCHOOLS

Status of denominational school.

130. Except where a denominational school agrees to become an assisted private school, it shall not lose its status whether or not it is in receipt of a Government grant or subsidy or other form of financial assistance designed to meet in whole or in part the cost of the management and maintenance of the school.

Regulations for denominational schools.

131. The Minister may make regulations respecting -

- (a) the registration of denominational schools;
- (b) the capacity of the facilities used by the denominational school;

- (c) the educational services or categories of educational services the denominational school dispenses;
- (d) the number and frequency of inspections by the Minister or Chief Education Officer to denominational schools;
- (e) the annual returns of statistics to be furnished by the denominational school to the Minister;
- (f) the health and sanitary requirements to be maintained by the denominational school; and
- (g) the buildings, premises, equipment and furnishings to be used by the denominational school.

PART 6

TECHNOLOGICAL AND VOCATIONAL EDUCATION AND TRAINING

Establishment of
Technological and
Vocational
Education and
Training Council.

132.(1) The Minister may establish a Technological and Vocational Education and Training Council whose membership shall be as follows:

- (a) the Permanent Secretary for Education or his designate who shall be an *ex officio* member;
- (b) the Permanent Secretary of the Ministry responsible for Labour or his designate who shall be an *ex officio* member;
- (c) one representative of the H. Lavity Stoutt Community College;
- (d) the Chief Education Officer who shall be an *ex officio* member;
- (e) the following persons appointed by the Minister by instrument in writing:
 - (i) two members appointed on the recommendations of the associations which represent employers;

- (ii) three members with expertise in technological and vocational education and training; and
- (iii) two members appointed on the recommendations of the duly recognised organisations representing employees.

(2)The Minister shall, by instrument in writing, appoint one member as chairman, and one member as deputy chairman.

(3)In the case of the inability of any member to act, the Minister may appoint a person to act temporarily in the place of that member.

Third Schedule.

(4)The Third Schedule has effect with respect to the procedure of the Technological and Vocational Education and Training Council and otherwise in relation thereto.

Functions of Council.

133. The functions of the Technological and Vocational Education and Training Council are -

- (a) to advise the Minister on policy relating to technological and vocational education and training;
- (b) to prepare plans for technological and vocational education and training in accordance with national policies and economic needs;
- (c) to monitor and make recommendations to ensure that agreed plans for technological and vocational education and training are implemented;
- (d) to advise on the co-ordination of technological and vocational education and training at all levels of the educational system;
- (e) to recommend standards for technological and vocational education and training;
- (f) to recommend training priorities, qualifications and accreditation;
- (g) to advise the Minister on the scheme of examinations which may be adopted to test students;

- (h) to determine the facilities and resources required to ensure satisfactory standards of technological and vocational education and training and the welfare of students, trainees and staff of training institutions;
- (i) to advise the Minister on the allocation of resources for technological and vocational education and training;
- (j) to advise the Minister on the making of grants and loans for the support and provision of technological and vocational education and training;
- (k) to make recommendation to the Minister on the making of regulations respecting technological and vocational education and training; and
- (l) to carry out such other functions relating to technological and vocational education and training as the Minister may require.

Directions. **134.** The Minister may give directions of a general or specific nature to the Technological and Vocational Education and Training Council and it shall comply with those directions.

Appointment and functions of committees. **135.(1)**The Technological and Vocational Education and Training Council may appoint committees to perform, in relation to technological and vocational education and training -

- (a) such of its functions as it delegates in writing; and
- (b) such other functions as are specified in section 136.

Fourth Schedule. (2) The provisions of the Fourth Schedule shall apply in respect of the procedure and function of committees and otherwise in relation thereto.

Additional functions of committee. **136.** The additional functions of a committee appointed by the Technological and Vocational Education and Training Council are as follows:

- (a) to undertake research or assist persons in undertaking research into matters relating to technological and vocational education and training;

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- (b) to advise the Technological and Vocational Education and Training Council on specified aspects of technological and vocational education and training;
 - (c) to advise the Technological and Vocational Education and Training Council on the training facilities to be provided at institutions for persons employed or seeking training in technological and vocational education and training;
 - (d) to advise on or make arrangements for giving selection criteria in respect of persons wishing to obtain technological and vocational education and training;
 - (e) to make recommendations respecting arrangements for tests and other methods of ascertaining the standards of efficiency to be recommended by the committee for persons seeking technological and vocational education and training; and
 - (f) to recommend the terms applicable to persons wishing to pursue technological and vocational education and training.

Training schemes.

137.(1)The Technological and Vocational Education and Training Council may, with the approval of the Minister and subject to section 134, formulate schemes for regulating training in any occupation.

(2)A term of any contract for training registered before the date of the coming into force of the scheme may not be revoked or varied by means of a scheme.

(3)A scheme may contain, in respect of any occupation to which it relates -

- (a) the qualifications, including the age and educational standards required for trainees;
- (b) the practical training that employers are required to provide for their trainees;
- (c) the theoretical training that is required to be provided by, or at the expense of, employers for their trainees, or that trainees are required to

undergo, and the manner in which the training is to be provided or undergone;

- (d) the proficiency tests or examinations that trainees are required to take;
- (e) the maximum number of ordinary working hours including overtime, trainees may be required or permitted to work during any day, week or other specified period;
- (f) the days on which, the hours in any day before or after which, and the intervals during which, no trainee can be required or permitted to work;
- (g) the minimum wages and other conditions that apply to trainees;
- (h) the minimum remuneration and other conditions that apply in respect of any period during which a trainee is unable, by reason of any condition of training, or other circumstances, to render service to his employer during working hours; and
- (i) any other matter that, in the opinion of the Technological and Vocational Education and Training Council, with the approval of the Minister, is necessary for the effective operation of the scheme.

(4) Different conditions of training may be specified in a scheme in respect of different classes of employers, trainees or occupations and the Technological and Vocational Education and Training Council may, in determining the different conditions for any scheme, apply any method of differentiation it thinks fit.

(5) A scheme may be amended by a subsequent scheme or by an Order made by the Minister on the recommendation of the Technological and Vocational Education and Training Council.

System for monitoring.

138. Subject to the approval of the Minister, the Technological and Vocational Education and Training Council shall establish an effective system for monitoring the implementation of the technological and vocational education and training strategy and plan prepared under section 141.

Annual
report.

139.(1)The Technological and Vocational Education and Training Council shall, not later than three months after the end of the school year, submit to the Minister a report containing -

- (a) an account of the activities of the Technological and Vocational Education and Training Council throughout the preceding financial year in such detail as the Minister directs; and
- (b) a statement of the accounts of the Technological and Vocational Education and Training Council for that financial year audited in accordance with regulations enacted for that purpose.

(2)A copy of the report of the Technological and Vocational Education and Training Council referred to in subsection (1) shall be printed and laid before the Legislative Council within three months after receipt of the report by the Minister, and published in the Gazette.

National
policy.

140. Subject to the approval of the Minister, the Technological and Vocational Education and Training Council shall prepare a national policy for technological and vocational education and training to meet the needs of society and the economy.

Plans for
technological
and vocational
education.

141.(1)Subject to the approval of the Minister, the Technological and Vocational Education and Training Council shall prepare a strategy and plan for technological and vocational education and shall update it each year.

(2)The strategy and plan referred to in subsection (1) shall identify outputs and priorities and recommend allocation of resources to implement the plan in the most cost effective manner.

(3)The strategy and plan shall only be implemented in public and assisted private schools on the written direction of the Minister to the Chief Education Officer.

Regulations
by the Minister.

142. The Minister may make regulations -

- (a) on the recommendation of the Technological and Vocational Education and Training Council -
 - (i) prescribing the form and terms of any contract of training;

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- (ii) prescribing the procedure for the registration and transfer of contracts for training, and for the notification of the expiration or termination of such contracts;
 - (iii) for the holding of tests in respect of any specified occupation, and for the granting of a certificate of proficiency to any person who enters for, and passes, any such test, notwithstanding that that person is not a trainee;
 - (iv) for the appointment of an Executive Director and other members of staff to manage its affairs; and
 - (v) respecting technological and vocational education and training generally and for matters related thereto;
- (b) establishing an employment and training fund for the purposes of promoting and supporting training and the upgrading of skills for the labour force;
 - (c) establishing and regulating the accounting and auditing of any funds received by the Technological and Vocational Education and Training Council;
 - (d) respecting the criteria and eligibility for receiving grants or loans;
 - (e) respecting the procedures for the evaluation of proposals for grants or loans;
 - (f) establishing procedures for monitoring the performance and outcome of training required to satisfy the conditions for award of grants or loans;
 - (g) respecting the procedures regarding training schemes; and
 - (h) respecting the supervision of trainees by employers.

PART 7**PROFESSIONAL DUTIES AND RESPONSIBILITIES
OF TEACHERS AND PRINCIPALS**

Qualifications of
teachers.

143. A person may not be employed as a teacher, principal or deputy principal in a public or assisted private school unless that person holds a valid qualification as established in regulations made by the Minister.

Rights of
teachers.

144. Every teacher has the right to -

- (a) be treated in a fair and reasonable manner;
- (b) be provided with an adequate working environment;
- (c) be provided with sufficient and appropriate equipment to carry out assigned professional duties;
- (d) be provided with adequate physical facilities to enable the performance of the assigned professional duties;
- (e) be protected as far as reasonably possible from molestation, abuse, assault and battery in the process of carrying out assigned professional duties whether within or outside the school when the teacher is engaged in authorised activities;
- (f) be afforded, if necessary, legal or psychological support, or both in the event of injury while in the execution of assigned duties;
- (g) compensation for injury, damage to, or loss of material possessions while in the execution or as a consequence of the execution of assigned duties provided that the personal injury, damage or loss was not caused by the negligence of the teacher;
- (h) reasonable access to professional training and development whether basic or otherwise;
- (i) be provided with adequate clothing, tools and equipment when engaged in hazardous activities;
- (j) be a member of a representative body, union or association and to participate in the lawful activities

of the representative body, union or association of which the teacher is a member; and

- (k) participate in the preparation of the school plan.

Exercise of
general
professional
duties.

145. A teacher shall -

- (a) carry out his professional duties under the reasonable direction of the principal; and
- (b) perform in accordance with any directions which may reasonably be given to him by the principal from time to time such additional duties as may reasonably be assigned to him.

Duties of
teachers.

146.(1) Every teacher in a public school and an assisted private school shall -

- (a) encourage students in the pursuit of learning and teach them diligently and faithfully;
- (b) teach courses of study that are prescribed, approved, or authorised pursuant to this Act or regulations;
- (c) report on the progress, behaviour, and attendance of students to their parents in accordance with the provisions of this Act or regulations;
- (d) under the direction of the principal, maintain order and discipline among students while they are in school, on school grounds, or attending or participating in activities sponsored or approved for the school not inconsistent with this Act or regulations;
- (e) review with students their assessments and progress and advise students of the expectations for them;
- (f) maintain whatever registers, records, or other forms as may be required by the principal, Chief Education Officer, or this Act and make those registers, records, or other forms available for inspection by the Chief Education Officer or by any person authorised by the Chief Education Officer;
- (g) observe the standards of the school as established by the staff and principal;

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- (h) upon reasonable notice from the principal, admit a parent of a student to the classroom for the purpose of observing;
- (i) report promptly to the principal an apparent outbreak of contagious or infectious diseases in the school, any unsanitary condition of the school building or surroundings and any other conditions or circumstances that may reasonably threaten the health or safety of students or other employees of the school;
- (j) notify the principal of any absence by the teacher from school and the reason for the absence;
- (k) upon the direction of the principal, co-operate with student teachers and their instructors in the classroom for the purpose of observing and practice teaching, and render assistance to the student teachers and submit reports on the teaching ability of the student teachers;
- (l) perform assigned duties as outlined in the school emergency plan developed by the school administration and the teachers to protect the health and, safety of students;
- (m) report to the principal and to the proper government official responsible for child welfare that a student is in need of protection when there are reasonable grounds to believe that the child is being abused and is in need of protection as required by the Juvenile Act;
- (n) attend staff and other relevant meetings;
- (o) plan and prepare courses and lessons;
- (p) teach students assigned to him according to their educational needs and set work to be carried out by the students in school and elsewhere and mark the same;
- (q) assess, record and report in a manner approved by the principal on the development, progress and attainment of students;

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- (r) provide guidance and advice to students on education and social matters and on their further education and future careers, including information about sources of more expert advice on specific questions;
 - (s) participate in the implementation of a policy for the pastoral care of the students;
 - (t) make arrangements under the direction of the principal for parents to be given regular information about the school curriculum, the progress of their children and other matters affecting the school;
 - (u) promote effective relationships with persons and bodies outside the school;
 - (v) advise and assist the Board of Management in the exercise of its functions, including attending meetings and making such reports to it in connection with the discharge of his functions as may be required;
 - (w) make and participate in implementing arrangements for the effective supervision of students during the school day, and the security of school buildings and their contents and of the school grounds;
 - (x) participate to such extent as may be appropriate having regard to other duties, in the teaching of students at the school, including provision of cover for absent teachers; and
 - (y) perform any other duties that may be prescribed by regulations made by the Minister under this Act.

(2) A teacher who fails to perform any or a combination of the professional duties specified in subsection (1) is liable to disciplinary action by the Teaching Service Commission in accordance with prescribed regulations respecting discipline.

Duties of Deputy
Principal.

147.(1) A person appointed deputy principal in a school, in addition to carrying out the professional duties of a school teacher, including those duties particularly assigned to him by the principal, shall -

- (a) assist the principal in managing the school or such part of it as may be determined by the principal;

- (b) undertake any professional duty of the principal which may be delegated to him by the principal; and
- (c) undertake, in the absence of the principal to the extent required by him, or other authority, the professional duties of the principal.

(2) A deputy principal who fails to perform any or a combination of the professional duties specified in subsection (1) and section 146 (1) is liable to disciplinary action by the Teaching Service Commission in accordance with the prescribed regulations made for that purpose by the Commission.

General
responsibilities
of principals.

148.(1) Subject to the provisions of this Act, the principal of each school shall -

- (a) furnish such returns as may be prescribed by the Minister by regulations;
- (b) ensure the observance of the provisions of the Education Act and any regulations;
- (c) promote satisfactory relationships with parents and the community served by the school;
- (d) develop and implement procedures for parental and community involvement in the school and promote co-operation between the school and the community it serves;
- (e) maintain order and discipline in the school, on the school grounds, and during activities sponsored or approved for the school;
- (f) supervise, direct and advise teachers and other staff assigned or rendering services to the school including volunteers;
- (g) maintain any records and complete any returns and forms required pursuant to this Act and regulations;
- (h) ensure the proper maintenance and care of school property;

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- (i) requisition necessary materials, supplies, and equipment for the school and arrange for distribution of them;
- (j) attend meetings of the Board of Management, the Parent Teacher Association or school committee for the school when requested by the relevant body to do so;
- (k) report promptly to the Chief Education Officer, the Director of Health Services, and other appropriate health personnel an apparent outbreak of any contagious or infectious disease in the school, any unsanitary condition in the school building or surroundings and any other dangerous or unsafe condition in the school;
- (l) report to the Chief Education Officer and to the proper government official responsible for student welfare that a student is being abused and is in need of protection when there are reasonable grounds to believe that the student is in need of protection as required by the Juvenile Act;
- (m) prepare the school's operations and maintenance budget for review and approval by the Board of Management, if such a body exists;
- (n) be responsible for the preparation and implementation of the school plan;
- (o) keep parents informed of the progress and development of students;
- (p) ensure that instruction in the school is consistent with the courses of study prescribed pursuant to this Act or regulations;
- (q) include in the activities of the school, cultural heritage traditions and practices;
- (r) formulate with the assistance of the staff the overall aims and objectives of the school and policies for their implementation;
- (s) deploy and manage all teaching and non-teaching staff of school and allocate particular duties to them

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- (including such duties of the principal as may properly be delegated to the deputy principal or other members of the staff) in a manner consistent with their conditions of employment;
- (t) ensure that the duty of providing cover for absent teachers is shared equitably among all teachers in the school (including the principal), taking into account their teaching and other duties;
 - (u) maintain relationships with organisations representing teachers and other persons on the staff of the school;
 - (v) organise and implement the prescribed curriculum for the school, having regard to -
 - (i) the needs, experience, interests, aptitudes and stage of development of the students;
 - (ii) the resources available to the school; and
 - (iii) his duties under this Act and regulations;
 - (w) keep under review the work and organisation of the school;
 - (x) encourage the professional development of teachers, evaluate the standards of teaching and learning in the school, and ensure that proper standards of professional performance are established and maintained;
 - (y) maintain good order and discipline among the students and safeguard their health and safety both when they are authorised to be on the school premises and when they are engaged in authorised school activities elsewhere;
 - (z) perform any other related duties which may be prescribed by regulations made by the Minister.

(2) A principal who fails to perform any or a combination of the professional duties specified in subsection (1) is liable to disciplinary action by the Teaching Service Commission in accordance with prescribed regulations respecting discipline.

PART 8

CURRICULUM AND ASSESSMENT OF STUDENTS

National curriculum.

149.(1)The Minister shall establish a national curriculum for public schools and assisted private schools.

(2)A curriculum established under subsection (1) shall be balanced and broadly based and shall, in addition to the goals and objectives specified in section 4 (2) -

- (a) promote the spiritual, emotional, moral, cultural, social, intellectual and physical development of students and of society; and
- (b) prepare students for the opportunities, responsibilities and experiences of adult life.

(3)The Minister may revise the national curriculum whenever the Minister considers it necessary and expedient to do so.

Core and foundation subjects.

150.(1)The curriculum for every public school and assisted private school shall comprise core and foundation subjects and specify in relation to each of them -

- (a) attainment targets that include the knowledge, skills and understanding that students of different abilities and maturities are expected to have by the end of each key stage;
- (b) programmes of study that include the matters, skills and processes that are required to be taught to students of different abilities and maturities during each key stage; and
- (c) assessment arrangements that include the arrangements for assessing students at or near the end of each key stage for the purpose of ascertaining what they have achieved in relation to the attainment targets.

(2)Subsection (1) shall not apply in the case of a school engaged in the delivery of special education.

Key stages of assessment.

151.(1)The key stages in relation to a student are as follows:

-
- (a) the period beginning with his attainment of compulsory school age and ending at the same time as the school year in which the majority of students in his class attain the age of seven;
 - (b) the period beginning at the same time as the school year in which the majority of students in his class attain the age of eight and ending at the same time as the school year in which the majority of students in his class attain the age of ten;
 - (c) the period beginning at the same time as the school year in which the majority of students in his class attain the age of eleven and ending at the same time as the school year in which the majority of students in his class attain the age of thirteen; and
 - (d) the period beginning at the same time as the school year in which the majority of students in his class attain the age of fourteen and ending at the same time as the school year in which the majority of students in his class attain the age of sixteen.

(2) For each key stage in subsection (1) the Chief Education Officer shall ensure that arrangements are made for the assessment of students to ascertain what they have achieved, in relation to the attainment targets.

(3) The assessments may be made by the Ministry or by a body or organisation designated or contracted to do so by the Minister.

(4) The Minister shall determine the frequency of the assessments.

(5) The Minister shall, within ninety days of receiving the results of the assessments, publish the results together with a commentary thereon by the Chief Education Officer.

Determination
of attainment
targets.

152.(1) The Minister shall by notice published in the Official Gazette establish -

- (a) the core subjects and other foundation subjects;
- (b) the attainment targets;
- (c) the programmes of study; and

- (d) the assessment arrangements

that the Minister considers appropriate.

(2) A notice issued under subsection (1) may not require that -

- (a) any particular period or periods of time should be allocated during any key stage to the teaching of any programme of study or any matter, skill or process forming part of it; or
- (b) provision of any particular time should be made in school timetables for the periods to be allocated to such teaching during any such stage.

Subject panels.

153.(1) For the purpose of creating and revising the national curriculum from time to time, the Minister may constitute subject panels to develop syllabuses for the core and foundation subjects.

(2) A subject panel shall comprise the following:

- (a) members of the teaching profession with expertise in the subject;
- (b) officials of the Ministry; and
- (c) other persons, including parents, having relevant knowledge or experience in the subject;

(3) Subject panels shall consist of not less than five or more than nine members appointed by the Minister after consultation with the Chief Education Officer, of whom -

- (a) one shall be appointed as chairman; and
- (b) another may be appointed as deputy chairman.

(4) The Chief Education Officer or other official designated by him shall co-ordinate the work of the subject panels and ensure the testing and implementation of the recommended syllabuses into the school system.

Collective
worship and
religious
education.

154.(1) Subject to subsections (2) and (5), the school day in every public or assisted private school shall begin with collective worship by all students in attendance at the school, and the arrangements made shall provide for a single act of worship which shall be Christian in character

attended by all students unless the school premises are so constructed as to make it impracticable to assemble for that purpose.

(2)The collective worship required by subsection (1) shall not, in any public school and assisted private school, be distinctive of any particular religious denomination.

(3)Subject to section 155, religious education shall be part of the curriculum of every public school and assisted private school.

(4)It shall not be a condition of admission or attendance of any student in a public school or assisted private school that a student -

- (a) participates in religious education or attends or abstains from attending any place of religious instruction or worship;
- (b) if his parent objects, attends any religious observances or receives any education in religious subjects at a school or elsewhere; or
- (c) attends a school or an activity in any place on any day specially set apart for religious worship by the religious body to which he belongs.

(5)Where the parent of any student attending a public school or assisted private school requests that the student be excused from attendance at collective worship, any religious observance or any education or instruction in religious subjects at the school or elsewhere, then, until the request is withdrawn, the student shall be excused.

Religious
education in
public schools.

155.(1)The religious education given to any student in attendance at a public school pursuant to section 154 (3) shall be given in accordance with an agreed syllabus adopted for the school and shall not include any catechism or formulary that is distinctive of any particular religious denomination.

(2)In respect of public schools the Minister may constitute a standing advisory council on religious matters connected with the religious instruction to be given in accordance with an agreed syllabus and in particular, as to methods of teaching, the choice of books, and the provision of lecturers or teachers.

PART 9

**INSPECTION AND REVIEW OF THE
EDUCATION SYSTEM**

DIVISION 1

INSPECTION OF SCHOOLS

Inspection of
schools.

156.(1)The Chief Education Officer, an Education Officer, or a public officer authorised in writing by the Chief Education Officer or any other person authorised in writing by the Minister shall, at the times and in the manner prescribed, inspect public schools, assisted private schools, and private schools.

(2)Any person who, pursuant to subsection (1) inspects a school shall -

- (a) give such assistance and guidance to the teachers employed at the school as might promote the good conduct and efficiency of the school;
- (b) advise the principal of the school on matters relating to its welfare and development; and
- (c) give to the Minister, the Board of Management, or, in the case of a private school, the proprietor, a report on the school.

Schools to be
opened for
inspections and
visits.

157.(1)The principal of a public school, an assisted private school and the proprietor or principal of a private school shall keep the school open at all times during school hours to visits and inspections -

- (a) by the Minister;
- (b) by the Chief Education Officer; or
- (c) by any other person authorised in writing by the Minister or the Chief Education Officer to visit or inspect the school.

(2)Any person who, pursuant to subsection (1), inspects a school may at the request of the Chief Education Officer examine the students in the subjects of instruction taught at the school.

Offences.

158. A person who -

- (a) prevents a person empowered or authorised under this Act or regulations from visiting or inspecting

public schools, assisted private schools or private schools; or

- (b) assaults or obstructs a person empowered or authorised under this Act or regulations to visit or inspect a public school, an assisted private school or a private school during a visit or inspection of such schools,

commits an offence and is liable on summary conviction to a fine not exceeding one thousand five hundred dollars and in the case of a second or subsequent conviction to a term of imprisonment not exceeding six months.

DIVISION 2

REVIEW OF THE EDUCATION SYSTEM

Appointment of
Education Review
Committee.

159.(1) Every five years or as soon as practicable thereafter, the Executive Council on the recommendation of the Minister, shall appoint an Education Review Committee of not more than five members to review and report on the education system of the Virgin Islands in accordance with section 160.

(2) The Education Review Committee shall comprise -

- (a) a member having relevant knowledge or expertise in education who shall be chairman;
- (b) one member from either -
 - (i) a Parent Teacher Association; or
 - (ii) a Board of Management;
- (c) one member from organisations concerned with either -
 - (i) community development; or
 - (ii) industry and commerce; or
 - (iii) professional services;
- (d) one member representing the teaching profession; and

Review and report
of Education
Review
Committee.

- (e) such other member as the Executive Council in its discretion thinks fit.
- 160.**(1)The Education Review Committee shall review and report on -
- (a) the physical conditions and the maintenance of public and assisted private schools;
 - (b) the suitability of the curriculum, in public and assisted private schools;
 - (c) the performance of students at -
 - (i) the assessments held in accordance with section 151 (1) and (2);
 - (ii) annual examinations set and marked by individual schools; and
 - (iii) examinations set by the Caribbean Examinations Council;
 - (d) the organisation of the Ministry as it relates to and its delivery of education services;
 - (e) the teaching service, and the number, quality and performance of teachers; and
 - (f) any other matter which in the opinion of the Education Review Committee would enhance the quality and delivery of education in the Virgin Islands.

(2)The report of the Education Review Committee shall be submitted to the Minister who shall cause it to be laid before the Legislative Council of the Virgin Islands.

(3)After the report of the Education Review Committee has been laid before the Legislative Council of the Virgin Islands it shall be printed and sold to the public.

PART 10

APPEALS

Establishment of
Education Appeal
Tribunal.

161.(1) For the purposes of determining appeals under this Act, the Minister shall appoint an Education Appeal Tribunal.

(2) The Minister shall appoint to the Education Appeal Tribunal -

- (a) fit and proper person as chairman;
- (b) a maximum of five other persons; and
- (c) a secretary who shall be a public officer.

(3) The chairman and the members of the Education Appeal Tribunal shall be appointed for a period not exceeding three years and in the manner specified by the Minister.

(4) The Minister may solicit and consider nominations for the membership of the Education Appeal Tribunal from groups interested in education in the Virgin Islands.

(5) The chairman and the members of the Education Appeal Tribunal shall swear an oath of non-disclosure in the form prescribed by the Minister for information gained during an appeal in accordance with this Part.

Composition of
Tribunal.

162.(1) An appeal referred to the Education Appeal Tribunal shall be heard by the chairman and two or more members chosen by the chairman.

(2) Subject to section 161 (2) (a), where possible, the qualifications of the members of the Education Appeal Tribunal shall be appropriate to the matter under consideration by the Tribunal.

(3) The chairman may call upon such experts or consultants as are considered necessary to advise the Education Appeal Tribunal.

Mediation.

163. Prior to the consideration of an appeal by the Education Appeal Tribunal, the chairman may appoint a mediator to attempt to settle the matter under appeal.

Procedure of
Tribunal.

164.(1) In considering the matter being appealed, the Education Appeal Tribunal may make any investigation it considers necessary.

(2) The Education Appeal Tribunal shall set the time, place, and date for a hearing of the appeal and shall notify the parties to the appeal of the time, place, and date of the hearing.

(3) A decision shall not be made by the Education Appeal Tribunal without giving the parties to the appeal an opportunity to make representations either orally or in writing or both.

(4) Parties to an appeal shall pay their own costs unless otherwise directed by the Tribunal.

(5) Unless the Education Appeal Tribunal decides otherwise, appeals shall be held in camera and may be heard in any place.

Powers of the
Tribunal.

165. The Education Appeal Tribunal, in deciding a matter being appealed, may make an order doing one or more of the following:

- (a) confirming or varying the decision that is under appeal;
- (b) identifying a student as a student with special educational needs;
- (c) determining that an individual education plan be prepared for a student;
- (d) directing the Chief Education Officer to implement an individual education plan in a particular environment including, but not limited to, a regular class;
- (e) directing the Chief Education Officer to enrol a student in a school named by the Education Appeal Tribunal;
- (f) directing a determination to be made in accordance with section 93;
- (g) defining the contents of a student record when the appeal under consideration is pursuant to section 23; and
- (h) reinstating to school a student who has been expelled or placed on an indefinite suspension.

Matters to be
considered.

166. In the determination of an appeal, the Education Appeal Tribunal shall consider -

- (a) the educational interests of the student who is the subject of the appeal;
- (b) the impact of a decision on the total school or class population; and
- (c) any other factor that appears to be relevant to the matter in dispute.

Final decision.

167. The decision of the Education Appeal Tribunal shall be final and binding upon the parties to the appeal.

Enforcement of order.

168.(1) A copy of an order made by the Education Appeal Tribunal shall be filed with the Registrar of the High Court.

(2) On the filing of a copy of an order with the Registrar of the High Court, the order has the same force and effect as if the order were an order of that Court.

Copy to the Minister and parties.

169. A copy of the decision of the Education Appeal Tribunal shall be sent to the Minister and the parties to the appeal.

PART 11

MISCELLANEOUS

Vendors on school premises.

170.(1) A person may not sell or offer for sale any services, goods, food, beverages or any other item on school premises or at school functions, including sports days without the written permission of the Chief Education Officer.

(2) A person who wishes to sell or offer for sale services, goods, food, beverages or any other item on the premises of a public school or assisted private school or at any school function, including sports days shall apply in writing to the Chief Education Officer through the principal of the particular school, for permission to do so.

(3) Where an application is made under subsection (2), the applicant shall submit together with his application -

- (a) a food handlers certificate (referred to as “certificate of health”) issued by the Director of Health Services under regulation 5 of the Public Health (Food Hygiene) Regulations; and

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(b) a trade licence issued under the Business, Professions and Trade Licences Act.

(4) Where an application is made under subsection (2), the Chief Education Officer may after interviewing the applicant and consulting the principal and having considered the suitability of the proposed services, goods, food, beverages or any other item to be sold, grant permission to the applicant, on such terms and conditions as the Chief Education Officer thinks fit.

(5) A person who sells or offers for sale food or drink on school premises or at school functions, including sports days shall ensure that the area used by him is in a clean state and that all wrapping or other kinds of litter are collected and disposed of.

(6) The sale of food and drink is not to be permitted during lesson periods.

(7) The Chief Education Officer may revoke the written permission given to any vendor who contravenes any of the conditions stated in the permit.

(8) A person who sells or offers for sale food, drink or any other item on the school premises or at school functions, including sports days or within the entrance or exit of a public school or assisted private school during school hours without the written consent of the Chief Education Officer commits an offence and is liable on summary conviction to a fine not exceeding one thousand five hundred dollars or to a term of imprisonment not exceeding one year or both.

Prohibition of sale of alcoholic beverages and tobacco.

171. (1) The sale, consumption, offer or exposure for sale of any alcoholic beverage or tobacco on the premises of any school, whether public or private or at a school function is prohibited.

(2) A person who sells, consumes, offers or exposes for sale any alcoholic beverage or tobacco on the premises of any school whether public or private or at a school function commits an offence and is liable on summary conviction to a fine not exceeding one thousand five hundred dollars or to a term of imprisonment not exceeding one year or both.

Loitering etc. on school premises.

172.(1) A person who -

(a) is found loitering, wandering or otherwise trespassing on the premises of any school;

(b) creates a disturbance on the premises of any school;

- (c) while on the premises of any school -
 - (i) uses threatening or insulting language or in any manner interferes with any student or member of the staff of the school; or
 - (ii) assaults, insults or abuses a student or member of the staff of the school;
 - (iii) disrupts any lawful activity conducted on the premises of the school;
- (d) in a public place causes or makes a noise that disturbs or is likely to disturb any lawful activity carried out on the premises of the school; or
- (e) causes any damage to any school building or other property found on the premises of, or forming part of the compound of the school,

commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to a term of imprisonment not exceeding one year or both.

(2) A person who commits an offence under subsection (1), may be arrested by any member of the Police Force, with or without a warrant.

(3) A prosecution for an offence under this section in relation to a public school or an assisted private school may be brought in the name of the Chief Education Officer.

Regulations.

173.(1) Subject to the provisions of this Act, the Minister may make regulations generally as he considers necessary or expedient for carrying out the purposes of this Act.

(2) Without restricting the generality of subsection (1), the Minister may make regulations -

- (a) respecting the management and conduct of public schools and assisted private schools;
- (b) concerning the control and management and conduct and registration of private schools and in particular in respect of -

-
- (i) the size of the classrooms and their equipment, the number of students that may occupy each classroom and the necessary sanitary and safety facilities to be provided;
 - (ii) the registers and other records to be kept by proprietors of private schools and the particulars to be furnished to the Ministry by the proprietors;
 - (iii) the suitability of premises;
 - (iv) the suitability of the curriculum and courses and methods of instruction;
 - (v) generally for more effectively carrying out the provisions of this Act respecting private schools;
- (c) prescribing the standard to which the premises of schools are to conform;
 - (d) respecting the purposes for which the premises of a public school may be used;
 - (e) prescribing the financial or other assistance and the conditions subject to which such assistance is given to any school, or class of schools specified in such regulations;
 - (f) respecting the admission of students to public schools and assisted private schools, the discipline of such students, the keeping by public schools and assisted private schools of a school record of each student, the particulars to be included in the record and the disposal of the record;
 - (g) respecting the establishment of an Examination Certification Board;
 - (h) respecting the conduct and operation of school guidance counsellors;
 - (i) respecting the qualification, conduct and operation of school security officers;

-
- (j) respecting the admission of persons to teachers' colleges and the conditions of admission;
 - (k) respecting -
 - (i) the admission or transfer of students to public secondary schools and assisted private secondary schools; and
 - (ii) the qualifying examinations for admission;
 - (l) respecting the management and accounting by principals and teachers of public schools and assisted private schools of -
 - (i) moneys or property payable to or vested in the school;
 - (ii) moneys derived from fund-raising activities;
 - (iii) moneys and other property derived by way of gift, bequest, trust, or donations, or in any other manner whatsoever;
 - (m) respecting special or home education;
 - (n) prescribing -
 - (i) the division into which students of teachers' colleges are to be classified and the conditions for the selection of students for those divisions and for their admission to or continuation, in or removal from, teachers' colleges in those divisions;
 - (ii) the courses and curricula for students of the various divisions in teachers' colleges;
 - (o) providing for the certification and registration of teachers completing courses of training;
 - (p) respecting the terms of employment including grading, discipline, promotion, and leave and payment of salaries and other remuneration to teachers;

-
- (q) respecting the establishment, administration, organisation, inspection and classification and discontinuance of schools;
 - (r) respecting the award of scholarships, bursaries, grants and other financial assistance for tertiary education and specifying the value and other conditions subject to which scholarships, grants, and bursaries may be held or other financial assistance given;
 - (s) prescribing the school year, hours of school, terms and vacations of public schools and assisted private schools;
 - (t) prescribing the cases in which, and the matters for which, fees may be charged in public schools;
 - (u) respecting the inspection of public schools, assisted private schools and private schools;
 - (v) respecting the constitution, rights, powers and responsibilities of Student Councils;
 - (w) embodying any collective agreement arrived at between the Ministry and the representative body representing teachers concerning the conditions of service of teachers represented by that body, or between the Ministry and any other body representing members of the teaching profession in respect of such members;
 - (x) respecting remuneration, allowances or stipends that may be paid to the members of any Board, Council or Committee under this Act;
 - (y) respecting the establishment, procedure and functions of an Accreditation Commission and other matters relating thereto; and
 - (z) prescribing anything that by this Act is to be prescribed.

Repeal and
savings.
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174.(1) Subject to subsection (2), the Education Act is repealed.

(2) The Education Regulations and any other subsidiary legislation passed pursuant to the Education Act, shall continue in force until revoked by the Minister under this Act, and shall be so construed with whatever modification or adaptation that may be necessary so as to give effect to the provisions of this Act.

FIRST SCHEDULE**[Section 10 (6)]****EDUCATION ADVISORY BOARD**

- Definition. **1.** In this Schedule, "Board" means the Education Advisory Board appointed under section 10 of this Act.
- Tenure. **2.** The appointment of a member of the Board is, subject to this Schedule, for a period not exceeding two years, but the member shall be eligible for re-appointment.
- Chairman and Deputy Chairman. **3.** The Board shall elect a chairman and a deputy chairman from among its members.
- Temporary appointment. **4.** In the absence or in the case of the inability to act of a member, the Minister may appoint any person from the group that member represents to act temporarily in place of such member.
- Resignation of members. **5.(1)** Any member of the Board, other than the chairman may at any time resign from the Board by instrument in writing addressed to the Minister and transmitted through the chairman and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Board.
- (2) The chairman may at any time resign his office as a member of the Board by instrument in writing addressed to the Minister, and such resignation shall take effect from the date of the receipt of such instrument by the Minister, if the date is not specified therein.
- Forfeiture of membership. **6.** Any member of the Board who fails to attend three consecutive meetings without excuse acceptable to the Board shall cease to be a member.
- Filling of vacancies. **7.** If any vacancy occurs in the membership of the Board such vacancy shall be filled by the appointment of another member who may, subject to this Schedule hold office for the remainder of the period for which the previous member was appointed, but such appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.
- Publication of membership. **8.** The names of all members of the Board as first constituted and every change in the membership shall be published in the Gazette.

Constitution
not affected by
vacancy.

9. The Board shall be deemed to be properly constituted for the purpose of this Schedule notwithstanding any vacancy among its members or any defect in their appointments.

Meetings.

10.(1) The Board shall meet at least three times a year and at such other times as may be convenient or expedient for the transaction of business and at such places as the chairman may determine.

(2) Subject to this Schedule, the Board may regulate its own procedure.

Special meetings.

11. The chairman may at any time call a special meeting of the Board and shall call a special meeting within fourteen days of a requisition for that purpose addressed to him by any five members.

Person to preside
at meetings.

12. The chairman or, in his absence, the deputy chairman shall preside at the meetings of the Board, and in the case of the absence of both the chairman and the deputy chairman, the members present and constituting a quorum shall elect a temporary chairman from among the members present.

Voting.

13. The decisions of the Board shall be by a majority of votes of the members present and, in addition to an original vote, the chairman or any other person presiding at the meeting shall have a casting vote in any case in which the voting is equal.

Quorum.

14. The quorum of the Board at any meeting shall be six.

Minutes.

15. Minutes of the proceedings of the Board shall be kept in proper form.

SECOND SCHEDULE

[Sections 66, 73, 79 and 80]

**CONSTITUTION, PROCEDURE, AND FUNCTIONS OF
BOARDS OF MANAGEMENT**

Interpretation.

1. In this Schedule "Board" means a Board of Management appointed under sections 66, 73, 79 and 80 of the Education Act.

Chairman and
Deputy
Chairman.

2.(1) Except in cases of Boards established under sections 79 and 80 of the Act, a Board shall elect a chairman and a deputy chairman from among its members.

(2) The membership of a Board as first constituted and any changes therein shall be notified in the Gazette.

Filling of
vacancies.

3. If any vacancy occurs in the membership of a Board such vacancy shall be filled by the appointment of another member in the manner indicated in sections 66, 73, 79 and 80, and such person shall hold office for the remainder of the period for which the previous member was appointed, provided however, that such appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

Employment of
member.

4.(1) A member of a Board may not be appointed to any office or employment under the Board of which he is a member or any other Board.

(2) A person is not eligible for appointment to any office or employment under a Board within one year from the date on which the person last held office or acted as a member of that Board.

Duration of
membership.

5.(1) Every member of a Board shall hold office for a term of three years unless, before the end of the term the member dies, resigns, is removed from office for any cause by the Minister or the appointing authority under sections 79 and 80 of the Act or ceases to be a member in accordance with subparagraph (4).

(2) Every member is eligible for reappointment for a further term.

(3) Any member of a Board who fails to attend three consecutive meetings of the Board without excuse acceptable to the Board shall cease to be a member thereof.

(4) A member of a Board may at any time resign his office by instrument in writing addressed to the Minister and transmitted through

the chairman in cases of Boards established in public schools and through the denomination or proprietor in cases of Boards established in assisted private schools provided that the resignation shall be effective from the date of receipt by the Minister of such instrument, if a date is not specified therein.

(5) The chairman may at any time resign office by instrument in writing addressed to the Minister in cases of Boards established in public schools and the denomination or proprietor in cases of Boards established in assisted private schools provided that the resignation shall be effective from the date of receipt by the Minister of such instrument, if a date is not specified therein.

Meetings.

6.(1) A Board shall meet at least once in every school term and at such other times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times on such days as the chairman may determine.

(2) The chairman may at any time summon a meeting of a Board and shall summon a meeting within seven days -

- (a) if a request for that purpose is addressed to him by any three members of a Board; or
- (b) on a direction to that effect addressed to him by the Minister.

(3) The chairman, or in his absence the deputy chairman, shall preside at any meeting of a Board.

(4) At any meeting of a Board, in case of the absence or inability to act of both the chairman and the deputy chairman, the members of the Board shall elect one of their members to preside at that meeting.

Quorum.

7. At any meeting of a Board a quorum shall be the minimum number constituting a majority of the total members of the Board.

Decisions.

8. The decisions of a Board shall be by a majority of the votes of the members present and constituting a quorum, but in any case in which the voting is equal the chairman, deputy chairman or other member presiding at the meeting shall in addition to an original vote, have a casting vote.

Minutes.

9.(1) Minutes in proper form of each meeting of a Board shall be kept by the secretary or such person as the Board may appoint for the purpose and shall be confirmed by the Board at its next meeting and

signed by the chairman or other person presiding at that meeting, and the secretary of the Board.

(2) A copy of the Minutes of each meeting as recorded by the secretary or such person as is referred to in subparagraph (1) shall be submitted to the Minister within one month of the confirmation of the minutes.

Attendance of
Chief Education
Officer.

10.(1) The Chief Education Officer may attend any meeting of a Board or a committee or subcommittee thereof or may be represented at any such meeting by a public officer authorised by him in that behalf.

(2) The Chief Education Officer or his representative may take part in the proceedings of any such meeting but shall not be entitled to vote or otherwise take part in the decision-making process of any such meeting.

Appointment of
committees.

11.(1) A Board may appoint a committee for any of the purposes of the Board which in its opinion would be better regulated or managed by means of a committee, with or without restrictions or conditions, as it thinks fit.

(2) The number of members of a committee appointed under this paragraph and their terms of office shall be fixed by the Board.

(3) A committee appointed under this paragraph may include persons who are not members of the Board but the chairman and at least two-thirds of the members of every committee shall be members of the Board.

(4) Any committee appointed by a Board under this paragraph may, subject to any restrictions imposed by the Board, appoint a subcommittee of its members as it may determine.

(5) Any subcommittee appointed under this paragraph shall be constituted in such manner as, subject to any restrictions imposed by the Board, may be determined by the appointing committee; but the chairman and at least two-thirds of the members of every subcommittee shall be members of the Board.

(6) Subject to any restrictions imposed by the Board where a committee appointed by the Board appoints a subcommittee in the exercise of the powers conferred on it by subparagraph (4), it may delegate to the subcommittee, with or without restrictions or conditions as it thinks fit, any of its functions.

Power to
delegate.

12. Without prejudice to paragraph 11, a Board, after consultation with the Minister, may delegate to any committee such of its functions as it considers appropriate subject to such restrictions or conditions as it thinks fit.

THIRD SCHEDULE**[Section 132]****PROCEDURE OF TECHNOLOGICAL AND VOCATIONAL
EDUCATION AND TRAINING COUNCIL**

- Definition. **1.** In this Schedule, "Council" means the Technological and Vocational Education and Training Council established under section 132 of this Act.
- Duration of appointment. **2.** A member of the Council holds office for a term of three years unless he dies, resigns or has his appointment revoked before the end of that term, but
- (a) a person who is appointed to fill a vacancy created by the death, resignation or removal from office of a member shall hold office only for the unexpired portion of the term of that former member; and
 - (b) every member is, on the expiration of the term of his appointment, eligible for re-appointment for a further term.
- Leave of absence. **3.** The Minister may grant leave of absence to a member of the Council and may appoint a person to act temporarily in the place of that member.
- Resignation of member. **4.** A member of the Council other than the chairman may resign office by instrument in writing addressed to the Minister transmitted through the chairman and, from the date of the receipt of the instrument by the Minister if no date is specified therein, that member ceases to be a member of the Council.
- Resignation of chairman. **5.** The chairman may at any time resign his office by instrument in writing addressed to the Minister and, from the date of the receipt of such instrument by the Minister if no date is specified therein, he ceases to be chairman and to be a member of the Council.
- Quorum. **6.** Four members of the Council shall form a quorum.
- Decisions. **7.** Decisions of the Council shall be made by a majority of the members present and voting, and where the voting is equal the chairman, in addition to his original vote, has a casting vote.

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- Frequency of meetings.
- 8.** The Council is required to meet at such times as may be expedient for the transaction of business and such meeting shall be held at such places and times and on such days as the Council determines.
- Special meeting.
- 9.** The chairman or, in the event of his being absent from the Territory or for any reason is unable to act, the deputy chairman, is required to call a special meeting within seven days after receiving a requisition to do so by any four members of the Council.
- Minutes.
- 10.** Minutes of each meeting are to be duly kept by the Secretary or other person appointed by the Council for the purpose, and are to be confirmed by the Council at its next meeting and signed by the chairman or other person presiding at that meeting and the Secretary.
- Co-opting of other persons.
- 11.** The Council may co-opt other persons to attend any of its meetings for the purpose of assisting or advising it respecting any matters with which it is dealing, but a co-opted member does not have a right to vote.
- Procedure.
- 12.** Subject to this Schedule, the Council may regulate its own procedure.
- Documents.
- 13.** All documents made by, and all decisions of, the Council are to be signified under the hand of the chairman or any member authorised to act in that behalf, or by the Secretary.

FOURTH SCHEDULE

[Section 135]

**CONSTITUTION OF COMMITTEES APPOINTED BY THE
TECHNOLOGICAL AND VOCATIONAL EDUCATION
AND TRAINING COUNCIL**

- Definition. **1.** In this Schedule -
- (a) “Council” means the Technological and Vocational Education and Training Council appointed under section 132 of this Act; and
- (b) “committee” means a committee appointed by the Technological and Vocational Education and Training Council under section 135 of this Act.
- Composition. **2.(1)** A committee shall comprise not more than five persons.
- (2) The Council shall, in respect of a committee, appoint one member of that committee to be chairman.
- Acting member. **3.(1)** A member of a committee may, with the permission of the chairman of that committee, appoint a person to act for him in case of his absence from a particular meeting.
- (2) A person appointed to act as a member of a committee in pursuance of subparagraph (1) may not appoint a person to act for himself nor may that person be appointed to act for more than one member.
- Duration of membership. **4.** A member of a committee shall hold office for a period not exceeding three years, but is eligible for re-appointment.
- Vacancy. **5.** Where a vacancy occurs in respect of a committee, the Council may appoint a person to fill that vacancy for the unexpired portion of the period in respect of which the vacancy occurs.
- Revocation of membership. **6.** The Council may revoke the appointment of a member of a committee who -
- (a) is absent from three consecutive meetings of the committee without leave of the Council;
- (b) is absent from the Territory for three months or more without notifying the Council;

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- (c) is unable to perform his duties as a member of the committee; or
- (d) fails to comply with a direction given by the Council.
- Secretary. **7.** The Council may assign a person to be the secretary of a committee.
- Frequency of meetings. **8.** A committee shall meet as often as the chairman decides, but at intervals not exceeding three months.
- Quorum. **9.** A quorum of a committee consists of three members one of whom shall be the chairman.
- Decisions. **10.** Decisions of a committee are to be by a majority of votes, and where voting is equal, the chairman, in addition to his original vote, has a casting vote.
- Co-opting. **11.** A committee may co-opt persons to attend any of its meetings for the purpose of assisting or advising it with respect to any matter with which it is dealing, but a co-opted person is not entitled to vote and shall not be counted for the purpose of constituting a quorum.
- Establishment of subcommittees. **12.** A committee may establish a subcommittee to assist in the performance of its functions and may co-opt to serve on any such subcommittee, any person whose assistance and advice the committee considers necessary for the purpose for which the subcommittee is established.

Passed by the Legislative Council this 22nd day of July, 2004.

V. INEZ ARCHIBALD,
Speaker.

DENNISTON FRASER,
Clerk of the Legislative Council.