

EDUCATION BILL 2009

THE COOK ISLANDS EDUCATION ACT 2009

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2009, No. ...

AN ACT about education in the Cook Islands.

(Here insert date of enactment)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

CHAPTER 1

INTRODUCTION

1. Short title and commencement

- (1) This is the Education Act 2009.
- (2) This Act comes into force, on a date to be decided by the Queen's Representative, by Order in Executive Council.

2. This Act binds everyone

- (1) This Act binds everyone, including the Crown.
- (2) However, the Crown is not liable to be prosecuted for an offence.

3. Purpose of this Act

- (1) The purpose of this Act is to provide for an education system in the Cook Islands, with an emphasis on—
 - (a) learning for life, namely learning at any time during a person's life (from early childhood through to late adulthood), recognising that each person's individual circumstances may mean that they want to access learning opportunities at different times in their life; and
 - (b) strength in Cook Islands Maori language, culture, perspectives and aspirations, in order to provide a firm foundation for engaging with the wider world; and
 - (c) everyone in the Cook Islands (including people with special needs, for example) has equitable access to quality learning, through a range of programmes that meet their individual needs and celebrate their individual talents; and
 - (d) a high level of community involvement in determining quality educational outcomes; and
 - (e) the right of everyone who is involved in the education system, including students, to be treated with dignity, respect and understanding.
- (2) The education system must, among other things, provide for—
 - (a) early childhood education, which is education that is offered to children who are younger than school age; and
 - (b) primary education, which is formal education that is offered in years 1 to 6 of school; and

- (c) secondary education, which is formal education that is offered in years 7 to 13 of school; and
- (d) tertiary education (also known as vocational training), which is formal education that is offered as a progression from secondary education; and
- (e) community education (also known as adult education or continuing education), which is education for the up-skilling of participants.

4. Interpretation

(1) In this Act, unless the context otherwise requires—

“apprenticeship” includes a tertiary education programme that is accredited or is otherwise approved by the Secretary;

“approved teacher” has the meaning given in section [38\(2\)](#);

“behaviour improvement programme” has the meaning given in section [21\(6\)](#);

“chairperson” is the chairperson of the committee of a school association;

“child” is a person who is younger than 18 years of age;

“committee” is the committee of a school association;

“community education” has the meaning given in section [3\(2\)\(e\)](#);

“complaints assessment committee” is the committee established under section [50](#);

“conditional registration” is registration that is subject to conditions;

“convicted”, of an offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded;

“early childhood centre” is an institution that provides early childhood education;

“early childhood education” has the meaning given in section [3\(2\)\(a\)](#);

“education” includes vocational training;

“educational institution” is—

- (a) an early childhood centre; or
- (b) a school; or
- (c) a tertiary education institution;

“Education Gazette” has the meaning given in section [66](#);

“education guideline” has the meaning given in section [17](#);

“**eligibility for registration**” has the meaning given in section [40](#);

“**formal education**” is education that leads to the award of a qualification, or part of a qualification, that is on the national qualifications framework;

“**Government**” centre, school or institution is a centre, school or institution that is operated by the Ministry;

“**higher education**” means tertiary education or community education;

“**Minister**” is the Minister for Education;

“**Ministry**” is the Ministry of Education;

“**misbehaviour**” has the meaning given in section [21](#)(2);

“**national qualifications framework**” has the meaning given in section [55](#);

“**parent**” of a child includes—

- (a) anyone who exercises parental responsibility for the child, whether by customary law or otherwise; and
- (b) anyone who has the actual custody of the child;

“**primary education**” has the meaning given in section [3](#)(2)(b);

“**primary school**” is an institution that provides primary education;

“**principal**”, of an educational institution, is the person (however described) who is responsible for the management of the educational institution;

“**private**” centre, school or institution is a centre, school or institution that is not a Government educational institution or school;

“**professional standards**” for teachers are the competencies, skills, knowledge, behaviour, and values that enable a person to effectively perform the duties of a teacher;

“**Public Service Act**” is the *Public Service Act 1995-96*;

“**Public Service Board of Appeal**” is the Board of Appeal established under section 31 of the Public Service Act;

“**regulation**” is a regulation made under this Act;

“**school**” is—

- (a) a primary school or secondary school; or
- (b) a Government school or private school;

“**school activity**” has the meaning given in section [19](#);

“**school rules**” has the meaning given in section [20](#);

“**secondary education**” has the meaning given in section [3](#)(2)(c);

“**secondary school**” is an institution that provides secondary education;

“**Secretary**” is the Secretary of Education;

“**sexual crime**” is a sexual crime under part VII of the *Crimes Act 1969*;

“**student**” includes—

- (a) a person for whom education is provided, or is required to be provided, under this Act; and
- (b) a person enrolled on a register, that is maintained in an educational institution, of the persons who are attending the educational institution;

“**student-teacher days**” has the meaning given in section [13\(2\)](#);

“**student-teacher contact hours**” has the meaning given in section [13\(3\)](#);

“**suitability for registration**” has the meaning given in section [41](#);

“**teach**” has the meaning given in section [38\(3\)](#);

“**teacher development days**” has the meaning given in section [13\(4\)](#);

“**teacher register**” is the register maintained under section [44](#);

“**teacher representative**” has the meaning given in section [25](#);

“**tertiary education**” has the meaning given in section [3\(2\)\(d\)](#);

“**tertiary education institution**” is an institution that provides tertiary education (including a university or training college, for example);

“**time-out**” has the meaning given in section [21\(5\)](#);

“**treasurer**” is the treasurer of the committee of a school association.

- (2) If a word or expression is defined in this Act, other parts of speech and grammatical forms of the word or expression have corresponding meanings.
- (3) In this Act, when the word “**must**” is used in relation to a power it indicates that the power is required to be exercised.

CHAPTER 2

THE MINISTRY, MINISTER AND SECRETARY OF EDUCATION

5. Ministry of Education

- (1) The department of government known as the “**Ministry of Education**” continues in existence.
- (2) The role of the Ministry is to—
 - (a) administer all matters connected with education; and
 - (b) administer this Act.
- (3) The money that the Ministry requires to give effect to this Act is to be paid out of the money that the Parliament appropriates.
- (4) Subsection (3) applies subject to section 70 (Revenue and expenditure of Cook Islands Government Account) of the Constitution of the Cook Islands.

6. Minister of Education

- (1) The Minister who is responsible for the Ministry of Education is the “**Minister for Education**”.
- (2) The role of the Minister is to—
 - (a) decide and implement the policies of the Ministry of Education, in a way that is consistent with the Government’s other policies; and
 - (b) perform any other tasks that are given to the Minister under this or another Act.
- (3) The Minister may set up an advisory committee to advise the Minister on anything relating to the Minister’s role.
- (4) The Minister may delegate power to perform the Minister’s role to an appropriately qualified person.
- (5) An “**appropriately qualified**” person is a person who has the qualifications, experience or position that is appropriate for the performance of the role.
- (6) Section [64](#) applies to all delegations.

7. Secretary of Education

- (1) The person who is appointed under the Public Service Act as head of the Ministry of Education is the “**Secretary of Education**”.

- (2) The role of the Secretary is to perform the tasks that are given to the Secretary under—
 - (a) this Act; and
 - (b) section 14 (Principal responsibilities) of the Public Service Act; and
 - (c) any other Act.
- (3) Subject to subsection (5), the Secretary may delegate power to perform the Secretary’s role to an appropriately qualified employee of the Ministry.
- (4) An “**appropriately qualified**” employee is an employee who has the qualifications, experience or position that is appropriate for the performance of the role.
- (5) The Secretary must not delegate a power that the Minister delegates to the Secretary, unless the Secretary has the Minister’s written consent.
- (6) Section [64](#) applies to all delegations.
- (7) Subject to the requirements of the Public Service Act, the Secretary may appoint the number of employees for the Ministry that the Secretary considers is necessary for the effective and efficient performance of the Ministry’s role.

8. Annual report for Ministry

- (1) As soon as practicable after the end of each financial year, the Secretary must give the following documents to the Minister—
 - (a) a written report on the progress and condition of the education system for the financial year; and
 - (b) the financial statements for the Ministry for the financial year.
- (2) The “**financial year**” is a year starting on the 1st of July.
- (3) The Minister must put a copy of these documents before Parliament within 14 days after receiving the documents from the Secretary.

CHAPTER 3

EDUCATIONAL INSTITUTIONS

9. Establishing and disestablishing Government educational institutions

- (1) The Minister may, with Cabinet consent, establish a Government educational institution.
- (2) The Minister may name, and change the name of, a Government educational institution.
- (3) The Minister may, with Cabinet consent, disestablish a Government educational institution if the Minister is satisfied that—
 - (a) disestablishing the educational institution is warranted because of the low number of students who are attending the educational institution; and
 - (b) there is another Government educational institution that is providing comparable education; and
 - (c) the students who are attending the educational institution could fairly conveniently attend that other Government educational institution.
- (4) The Queen's Representative may, by order in Executive Council, decide who can use the land or buildings of a disestablished educational institution, subject to the terms under which the Crown holds the disestablished educational institution.

10. Operating an unregistered private educational institution

- (1) A person commits an offence if the person operates a private educational institution that is not registered under this Act.
- (2) The maximum penalty for the offence is a fine of \$10,000, or imprisonment for 3 months, or both.
- (3) However, if the person continues to commit the offence after the person has been convicted of the offence, the person is liable to a further fine of \$500 for every day on which the person continues to commit the offence.

11. Registration of a private educational institution

- (1) A person who wants to register a private educational institution must apply to the Minister.
- (2) The application must—

- (a) be made in the form that is approved by the Minister; and
 - (b) be accompanied by any application fee that is fixed by a regulation.
- (3) The Minister may register a private educational institution only if the Minister is satisfied that—
- (a) establishing the educational institution will fulfil a need in the Cook Islands; and
 - (b) the educational institution meets the criteria that are set out in a regulation.
- (4) To remove any doubt, a regulation may prescribe different criteria for different types of educational institutions.
- (5) The Minister may require the person—
- (a) to provide any other information that the Minister reasonably requires to consider the application; and
 - (b) to confirm any aspect of the application by statutory declaration.
- (6) The Minister must promptly consider every application and, after consulting with Cabinet, decide to—
- (a) grant the application; or
 - (b) refuse to grant the application.
- (7) The Minister may impose conditions on the registration.
- (8) The Minister must promptly advise the person, in writing, of the Minister's decision.
- (9) If the Minister decides to grant a person's application, the Minister must—
- (a) publish notice of the registration of the private educational institution in the Education Gazette; and
 - (b) enter the person's details in a register established by the Secretary; and
 - (c) issue a certificate of registration to the person.
- (10) If the Minister is satisfied that a private educational institution is not complying with this Act, the Minister may, with Cabinet consent, cancel the registration of the institution.
- (11) However, the Minister must first give the owner of the institution an opportunity to show the reasons why the Minister should not cancel the registration of the institution.

12. Closing a private educational institution

- (1) If the owner of a private educational institution intends to close the educational institution, the owner must advise the Minister about it in writing.
- (2) The owner may apply to the Minister for the educational institution to be incorporated into the Government system.
- (3) If the Minister considers that would be in the public interest, the Minister may, by a notice published in the Education Gazette, declare that the educational institution is to become a Government educational institution on a date specified in the notice.
- (4) On that date, the educational institution becomes the property of the Crown.
- (5) In exchange for the land, buildings and equipment of the private educational institution, the Crown must pay the owner—
 - (a) the amount that is agreed between the Crown and the owner; or
 - (b) if the Crown and the owner can not agree—the amount that is decided by the High Court.
- (6) The Minister may act under subsection (3) only with Cabinet consent.

CHAPTER 4 SCHOOLS

PART 1 SCHOOL ENROLLMENT AND ATTENDANCE

13. Terms and hours of school instruction

- (1) The Minister must, before the 1st of July in each year, set—
 - (a) the start and end dates of each term for the next year; and
 - (b) the student-teacher days for the next year; and
 - (c) the student-teacher contact hours for the next year; and
 - (d) the teacher development days for the next year.
- (2) The “**student-teacher days**” are the minimum number of days during the year when a school must be open for the instruction of students.
- (3) The “**student-teacher contact hours**” are the minimum number of hours on each student-teacher day that a school must be open for the instruction of students.
- (4) The “**teacher development days**” are the minimum number of days during the year when a school must be open for the development of teachers.
- (5) Those dates, days and hours may differ for different types of schools.
- (6) However—
 - (a) a term must not be longer than 15 weeks; and
 - (b) there must be at least 190 student-teacher days in each year; and
 - (c) there must be at least 10 teacher development days in each year.
- (7) The Minister must publish notice of the dates, days and hours in the Education Gazette before the 1st of July in each year.
- (8) The principal of a school must ensure that the school is open for the instruction of students for at least the set number of student teacher contact hours on each of the set number of student-teacher days in the year.
- (9) If the principal can not do so, the principal must ensure that the school is open for the instruction of students in between the terms to enable the school to be open for instruction of students for the set number of student-teacher contact hours and student-teacher days for the year.

- (10) However, the Secretary may exempt the principle from doing so, if the Secretary is reasonably satisfied that the school was closed because of—
- (a) a force of nature (a cyclone, for example); or
 - (b) an event that endangered the health and safety of people at the school (a spill of toxic chemicals, for example).
- (11) In this section, “**school**” also refers to an early childhood centre.

14. Compulsory schooling

- (1) This section applies to every child who is living in the Cook Islands, even if they are not a citizen or permanent resident.
- (2) Every child is entitled to be educated at a Government school, with the Crown paying the cost of providing instruction, administration and facilities for the child’s education.
- (3) Every parent of a child must ensure that the child is enrolled at a school at the beginning of the term that starts immediately before the child turns 5 years of age.
- (4) A parent who does not comply with subsection (3) commits an offence, unless the parent has a reasonable excuse.
- (5) The maximum penalty for the offence is a fine of \$1000.
- (6) Every parent of a child must ensure that the child attends a school, during the student-teacher contact hours, until the child turns 16 years of age.
- (7) A parent who does not comply with subsection (6) commits an offence, unless the parent has a reasonable excuse.
- (8) The maximum penalty for the offence is—
- (a) for a first offence—a fine of \$150; or
 - (b) for a second or subsequent offence—a fine of \$400.
- (9) A parent has a reasonable excuse under subsection (6) if—
- (a) the student is on time-out under section [21](#); or
 - (b) the Secretary exempts the parent under section [15](#).

15. Exemption from attending school

- (1) The Secretary may exempt a parent from complying with section [14](#) if the Secretary is reasonably satisfied that—
- (a) the child is prevented from attending school because of—
 - (i) illness or injury; or
 - (ii) the risk of infection; or
 - (iii) another reason that the Secretary considers is sufficient to prevent the child from attending school; or

- (b) the child is receiving equivalent education in some other way (through home schooling, for example); or
 - (c) if the child is of employable age—the child is being trained in an apprenticeship.
- (2) A child is of “**employable age**” if the child is old enough to be legally employed according to the laws of the Cook Islands dealing with employment.
- (3) The exemption may be for the period that the Secretary considers appropriate in the circumstances.
- (4) A decision of the Secretary under this section can not be appealed against.
- (5) To remove any doubt, the Secretary must not exempt a parent only because their child has special needs or is pregnant.

16. School zones

- (1) This section is about school zones.
- (2) The purpose of school zones is—
- (a) to avoid overcrowding at Government schools; and
 - (b) to ensure that students are selected for enrolment at Government schools in a fair and transparent way; and
 - (c) to allow the Secretary to make the best use of the existing network of Government schools.
- (3) The Queen’s Representative may, by order in Executive Council, declare an area to be a school zone.
- (4) If an area is declared to be a school zone, any child who—
- (a) lives in that area; and
 - (b) is required to be enrolled at a school under section [14](#); and
 - (c) is not enrolled at a private school;
- must be enrolled at a school within that school zone.

PART 2

EDUCATION GUIDELINES

17. Education guidelines

- (1) The Minister may make education guidelines that apply to schools.

- (2) An “**education guideline**” is a document that contains any or all of the following—
- (a) education goals, which are statements about the objectives and desirable achievements for the education system, or a part of the education system;
 - (b) curriculum policy statements, which are statements about teaching, learning, and assessment, that are made in order to underpin and give direction to—
 - (i) the way in which curriculum and assessment responsibilities are to be managed in schools; or
 - (ii) curriculum statements;
 - (c) curriculum statements, which are statements about—
 - (i) the areas of knowledge that students must learn (the “**essential learning areas**”), which must include Cook Islands Maori language and culture; or
 - (ii) the minimum time to be allocated for the teaching of each of the essential learning areas in each year; or
 - (iii) the desirable levels of knowledge and skills to be achieved by students in the essential learning areas;
 - (d) administration statements, which are statements about the administration of schools, and which may for example set out—
 - (i) statements of desirable principles of conduct, or administration, for specified types of persons or bodies; or
 - (ii) requirements for the professional development of teachers, including for example—
 - (A) professional standards for teachers; and
 - (B) performance appraisal of teachers; or
 - (iii) requirements relating to planning and reporting.
- (3) The education guidelines must be published in the Education Gazette, by publishing either—
- (a) the full text of the education guidelines; or
 - (b) a notice that gives a general description of the education guidelines and indicates where a person can get the full text of the education guidelines.

18. Instructions to principals

The Secretary may issue instructions to the principals of schools in order to promote compliance with—

- (a) the education guidelines; and

- (b) any other policies made under this Act.

PART 3

MANAGEMENT OF BEHAVIOUR AT SCHOOL

19. What this part is about

- (1) This part is about managing the behaviour of persons, including students, while the persons are—
 - (a) on school premises; or
 - (b) not on school premises but are taking part in a school activity.
- (2) A “**school activity**” is an activity that is organised by a school, with the approval of the principal, including for example—
 - (a) for extracurricular purposes (a sports carnival, for example); and
 - (b) after student-teacher contact hours (a weekend camping trip, for example).
- (3) This part is intended to—
 - (a) promote a supportive environment at school so all members of the school community may work together in developing acceptable standards of behaviour in order to create a caring, productive and safe environment for learning; and
 - (b) promote an effective teaching and learning environment at school that allows positive aspirations, relationships and values to develop; and
 - (c) foster mutual respect among staff and students; and
 - (d) encourage students to take responsibility for their own behaviour and the consequences of their actions.

20. School rules

- (1) The principal of a school may make school rules.
- (2) “**School rules**” are rules for the safety, wellbeing and good conduct of persons, including students, while the persons are—
 - (a) on the school’s premises; or
 - (b) not on school premises but are taking part in a school activity.

21. Range of responses to a student’s misbehaviour

- (1) The section is about the permissible responses to a student’s misbehaviour.

- (2) **“Misbehaviour”** includes a breach of school rules, wilful failure to prepare homework, and disobedience.
- (3) Depending on the seriousness of the misbehaviour, and the student’s history of misbehaviour, the principal may—
- (a) counsel the student about the misbehaviour, in the presence of an appropriate support person for the student (a parent or a guidance counsellor, for example); or
 - (b) require the student to serve detention during the student’s lunch break; or
 - (c) prohibit the student from taking part in a school activity (including a day trip or afterhours concert, for example); or
 - (d) if the principal is reasonably satisfied that the student has seriously misbehaved—
 - (i) require the student to immediately take time-out, to allow for everyone who is connected to the student’s behaviour to reflect on what happened and, if necessary, to calm down; and
 - (ii) if the principal is reasonably satisfied that the misbehaviour is so serious that time-out alone will not adequately deal with the misbehaviour— require the student to participate in a behaviour improvement programme.
- (4) A student has **“seriously misbehaved”** if the student has behaved in a way that—
- (a) is a harmful example to other students at the school; or
 - (b) may have seriously harmed the student or someone else at the school.
- (5) **“Time-out”** is a period of time, of up to 5 student-teacher days, during which a student must not attend school (but see section [23](#) under which the student must do school work during time-out).
- (6) A **“behaviour improvement programme”** is a programme that is approved by the Minister to help a student—
- (a) not to repeat misbehaviour; and
 - (b) return to normal schooling as soon as it is appropriate.
- (7) For example, a student may be required under a behaviour improvement programme to—
- (a) be educated at premises outside the school; or
 - (b) participate in anger management counselling.

- (8) As section [14](#) makes schooling compulsory until a child turns 16 years of age, a child can not be expelled from school before the child turns 16 years of age.

22. Informing parent of misbehaviour

- (1) As soon as possible after requiring a student to take time-out, the principal must take all reasonable steps to—
- (a) meet with the student, in the presence of a parent of the student, to talk about the student's misbehaviour; and
 - (b) give the parent a notice that states—
 - (i) that the principal has required the student to take time-out; and
 - (ii) the reasons for requiring the student to take time-out; and
 - (iii) how long the student must take time-out for; and
 - (iv) whether the student is also required to participate in a behaviour improvement programme; and
 - (v) that the parent may apply to the Secretary for a review of the principal's decision; and
 - (vi) the way that the parent may apply for a review of the principal's decision.
- (2) The parent may apply to the Secretary, before the end of the time-out, for a review of the principal's decision.
- (3) The parent's application must give the reasons why the principal's decision should be changed.
- (4) After reviewing the principal's decision, the Secretary must—
- (a) decide to confirm, change or cancel the principal's decision; and
 - (b) as soon as practicable, give a notice to the parent, and the principal, about the Secretary's decision and the reasons for the Secretary's decision.
- (5) The Secretary's decision can not be appealed against.

23. Minimising the disruption to a student's education

- (1) This section applies if a student—
- (a) is on time-out; or
 - (b) is participating in a behaviour improvement programme.
- (2) The principal must arrange for the student to have access to an educational programme that allows the student to continue their schooling (at home or at non-school premises, for example).

- (3) Each parent of the student must ensure that the student participates full-time in the educational programme.
- (4) If a parent does not comply with subsection (3), the parent commits an offence, unless the parent has a reasonable excuse.
- (5) The maximum penalty for the offence is—
 - (a) for a first offence—a fine of \$150; or
 - (b) for a second or subsequent offence—a fine of \$400.

PART 4

SCHOOL ASSOCIATIONS

24. Role of a school association and its committee

- (1) Each school has a school association.
- (2) However, 1 or more school associations may amalgamate into a combined school association, if a majority of the members of each of the school associations agree.
- (3) The role of the school association is to—
 - (a) promote the interests of the school; and
 - (b) facilitate the further development of the school; and
 - (c) foster community interest in educational matters; and
 - (d) try to bring about closer cooperation between parents of the students attending the school, other members of the community, staff members of the school, and students of the school; and
 - (e) give advice to the school's principal (including in response to a request for advice from the principal) about—
 - (i) matters relating to students of the school; or
 - (ii) the general operation and management of the school (including the appointment of teachers, school planning procedures, and school policies, for example); and
 - (f) give, or assist in the giving of, financial or other resources or services for the benefit of the school; and
 - (g) help to maintain the school grounds, buildings and equipment; and
 - (h) perform any other tasks, consistent with this Act, that the Minister decides.
- (4) Each school association has 1 committee.
- (5) The role of the committee is to ensure that the school association performs its role.

- (6) The committee may form subcommittees to deal with specific aspects of its role (a fund raising subcommittee, for example).

25. Members of a school association

- (1) The following persons are members of a school association—
- (a) the principal of the school;
 - (b) one of the teachers of the school, who is elected by the teachers to represent them (the “**teacher representative**”).
- (2) The following persons may become members of the school association—
- (a) a parent of a student who is attending the school;
 - (b) any other adult who is interested in the school’s welfare.

26. Members of a school association’s committee

- (1) The committee of a school association consists of the following members—
- (a) the principal;
 - (b) the teacher representative;
 - (c) a chairperson, who is to run the meetings of the school association and its committee;
 - (d) a treasurer, who is to keep and maintain the school association’s financial records;
 - (e) a secretary, who is to keep and maintain the school association’s other records (including minutes of the meetings of the school association and its committee, for example);
 - (f) any other members, as decided by the school association.
- (2) The members of the school association who are parents of the students at the school must elect the members mentioned in subsection (1)(c) to (f) at each annual general meeting.
- (3) When doing so, the members must ensure that a majority of the elected members are parents of the students at the school.
- (4) The elected members of a committee hold their position until the next annual general meeting, but are eligible for reappointment.
- (5) The members of the committee hold their positions in an honorary capacity.

27. Ending membership of a school association’s committee

- (1) A committee may vote to remove a member from the committee if the member—

- (a) is unable to perform their duty because of—
 - (i) a physical or mental incapacity; or
 - (ii) imprisonment; or
 - (iii) absence from the Cook Islands for longer than 6 months; or
 - (b) neglects their duty; or
 - (c) does not act with integrity as a member of the committee, including for example by—
 - (i) failing to disclose, and to take all reasonable steps to avoid, any real or apparent conflict of interest in relation to their membership of the committee; or
 - (ii) using information under the control of the committee, other than for performing the school association's role; or
 - (iii) failing to attend 3 consecutive meetings of the committee without giving an apology to the committee.
- (2) The position of a member of the committee becomes vacant if the member—
- (a) is removed from the position under subsection (1); or
 - (b) resigns, by giving a written notice of resignation to the school association; or
 - (c) dies.
- (3) The committee may appoint a member of the school association, who is a parent of a student at the school, to fill a vacancy on the committee until the next annual general meeting.

28. Meetings of the school association's committee

- (1) This section is about meetings of the committee of a school association.
- (2) The chairperson must ensure that the committee meets at least once every 2 months, other than in December and January.
- (3) However, the chairperson must convene an extra meeting if at least 3 members of the committee give the chairperson a written request to do so.
- (4) If the chairperson is unavailable for a meeting, the members of the committee may appoint another member of the committee to run the meeting.
- (5) The quorum for a meeting is a majority of the members of the committee.
- (6) Each question before a meeting must be decided by the votes of a majority of the members of the committee who are present at the meeting.
- (7) If a vote is tied, the chairperson also has a casting vote.

- (8) Except as otherwise provided in this section, or in a regulation, the committee may conduct its meetings in any way that it considers appropriate.

29. Annual general meeting of a school association

- (1) A school association must hold its annual general meeting on or before the 31st of March in each year.
- (2) The chairperson must ensure that a notice of the holding of the annual general meeting is given to the members of the school association, at least 7 days before the meeting is to be held.

30. Bank account of a school association

- (1) Each school association must have only 1 bank account.
- (2) The treasurer must promptly deposit any money received by the school association into the bank account.
- (3) At the annual general meeting of the school association, the members of the association must appoint 3 members of the association to be trustees of the bank account.
- (4) However, the committee may appoint a member of the school association, who is a parent of a student at the school, to fill a vacancy in a trustee's position until the next annual general meeting.
- (5) The bank account must be operated only on the signature of 2 of the trustees.
- (6) The principal must ensure that the money is used only for the lawful performance of the school association's role under section [24](#).

31. Financial records of a school association

- (1) The principal must keep and maintain every financial record of the school association for 7 years after the date when the financial record was created, or received by the school association, whichever is the later date.
- (2) A **“financial record”** is a document that relates to the financial management of the school association (including a bank statement, contract, invoice and receipt, for example).
- (3) The treasurer must prepare a financial statement for—
- (a) the first half of each school year; and
 - (b) each school year.
- (4) A **“financial statement”** is a document that—
- (a) for the period that the statement relates to, states—

- (i) the opening balance of the school association's bank account at the start of the period; and
 - (ii) the amounts paid into, and out of, the school association's bank account during the period; and
 - (iii) who the amounts were received from or paid to; and
 - (iv) the closing balance of the school association's bank account at the end of the period; and
 - (b) states that the financial statement gives a true and fair view of the school association's bank account for the period that the financial statement relates to; and
 - (c) is signed by the 3 trustees of the school association's bank account.
- (5) A **“school year”** is a year starting on the 1st of January.
- (6) The treasurer must prepare the financial statement as soon as practicable after the period that the financial statement relates to, but no later than 1 month after the end of that period.
- (7) As soon as the financial statement is prepared, the treasurer must give a copy of the financial statement to—
- (a) the Secretary; and
 - (b) the Audit Office.
- (8) The treasurer must, as soon as practicable after the end of each school year, arrange for an auditor—
- (a) to audit the financial records of the school association; and
 - (b) prepare a report on the results of the audit.
- (9) An **“auditor”** is a person who holds qualifications of a type that are approved by the Secretary for auditing the school association's bank account.
- (10) The treasurer must give a copy of the auditor's report to—
- (a) the Secretary, as soon as practicable after the end of the school year that the report relates to; and
 - (b) the members who are present at the next annual general meeting.

32. Authority of a school association

- (1) A school association must comply with—
- (a) this Act; and
 - (b) any written directions of the Secretary.

- (2) A school association does not have, and must not attempt to exercise, any authority over the teaching staff, or the general operation and management, of the school.

PART 5

TEACHER REGISTRATION

DIVISION 1

INTRODUCTION

33. What this part is about

- (1) This part is intended to safeguard the public interest in there being a teaching profession whose members are—
- (a) competent educators; and
 - (b) appropriate persons to have the care of children.
- (2) This is to be achieved by establishing and maintaining a system for—
- (a) setting minimum standards for entry to, and continuing membership of, the teaching profession (the “**professional standards**”); and
 - (b) registering people as approved teachers only if they comply with the professional standards; and
 - (c) monitoring and enforcing compliance by approved teachers with the professional standards.
- (3) This part does not apply to teachers in higher educational institutions.

34. Relationship with the Public Service Act

This part prevails over the Public Service Act, to the extent of any inconsistency between this part and the Public Service Act.

35. Secretary’s responsibilities—professional standards for teachers

- (1) The Secretary is responsible for establishing and maintaining a system for the professional standards that apply to the teaching profession.
- (2) The system must, among other things, provide for—
- (a) developing the professional standards; and
 - (b) reviewing the professional standards regularly, and making any necessary changes to the professional standards; and

- (c) monitoring the performance of approved teachers against the professional standards (including through a system of performance appraisal, for example); and
 - (d) enforcing the professional standards; and
 - (e) maintaining accessible records of the decisions of the Secretary about the professional standards.
- (3) The professional standards may require, for example, the observance of a code of conduct for teachers.
- (4) The professional standards must ensure that teaching services—
- (a) meet accepted international standards; and
 - (b) are consistent with the human rights that apply to persons in the Cook Islands.

36. Secretary's responsibilities—registration system

- (1) The Secretary is responsible for establishing and maintaining a system for registering approved teachers.
- (2) The system must, among other things, provide for—
- (a) deciding how a person is to satisfy initial and ongoing eligibility requirements for registration; and
 - (b) deciding applications for, or renewal of, registration; and
 - (c) ensuring approved teachers continue to meet the eligibility and suitability requirements for registration, (including by monitoring the compliance of approved teachers with conditions of registration, for example); and
 - (d) maintaining a register of approved teachers; and
 - (e) developing or approving training programmes—
 - (i) that are relevant to a person's eligibility for registration; and
 - (ii) for the continuing professional development of approved teachers; and
 - (f) monitoring the effectiveness of those training programmes; and
 - (g) collaborating with entities who are engaged in developing whole-of-government policies that relate to the teaching profession (including the Office of the Public Service Commissioner, for example); and
 - (h) approving procedures for ensuring the security and integrity of the registration system (when giving registration certificates by fax or email, for example); and

- (i) undertaking or supporting reviews and research that is relevant to the regulation of the teaching profession.

37. Secretary's other responsibilities

The Secretary is also responsible for—

- (a) promoting the teaching profession to the public; and
- (b) informing approved teachers and the public about the operation of this Act.

DIVISION 2

CRITERIA FOR REGISTRATION AS AN APPROVED TEACHER

38. Who may teach in an early childhood centre or school

- (1) A person may teach in an early childhood centre or school only if the person is an approved teacher.
- (2) An **“approved teacher”** is a person who is registered as—
 - (a) a teacher, either with or without conditions; or
 - (b) the holder of a limited authority to teach.
- (3) A person **“teaches”** in an early childhood centre or school if the person undertakes duties in the centre or school that include—
 - (a) delivering an educational programme; or
 - (b) assessing student participation in an educational programme.
- (4) Subsection (1) does not apply to a person who is training to be a teacher.
- (5) A person who does not comply with subsection (1) commits an offence.
- (6) The maximum penalty for the offence is a fine of \$1000, or imprisonment for 3 months, or both.

39. Criteria for registration

A person is entitled to be registered as an approved teacher if the person satisfies the Secretary that the person—

- (a) is eligible for registration; and
- (b) is suitable for registration.

40. Eligibility for registration

A person is eligible for registration only if—

- (a) in the case of an application for registration as a teacher—the person has the qualifications and experience that is prescribed under a regulation; or
- (b) in the case of an application for registration as the holder of a limited authority to teach— the person has the knowledge, skills or experience that the Secretary considers to be relevant to the teaching position that the person is to fill.

41. Suitability for registration

- (1) A person is not suitable for registration if the person, in the Cook Islands or elsewhere—
 - (a) has behaved in a way that shows that, although the person is eligible for registration, the person is not competent in performing the duties of a teacher; or
 - (b) has behaved in a way that shows that the person is not an appropriate person—
 - (i) to be registered as an approved teacher; or
 - (ii) to work in a child-related field.
- (2) When deciding whether a person is suitable for registration, the Secretary may have regard to any information that the Secretary considers relevant, including among other things—
 - (a) if the person was refused registration as an approved teacher overseas—the reason why the person was refused registration; and
 - (b) if the person was employed in an educational institution and the person’s employment was terminated—the reason why the person’s employment was terminated; and
 - (c) if the person was registered as an approved teacher overseas and—
 - (i) a condition was imposed on the registration—the nature of the condition and the reasons why it was imposed; or
 - (ii) the registration was suspended or cancelled—the reason why the registration was suspended or cancelled; or
 - (iii) the registration was affected in another way—the way the registration was affected and the reason why it was affected; and
 - (d) any conviction of the person of an offence against a law of the Cook Islands or another country, and the relevance of the offence to the duties of a teacher.
- (3) The Secretary may ask the Commissioner of Police to give the Secretary the following information about the person—

- (a) a written report about the person's criminal record, in the Cook Islands or elsewhere, that the Commissioner of Police has access to; and
 - (b) a brief description of the circumstances of a conviction or charge mentioned in the person's criminal record.
- (4) The Commissioner of Police must promptly comply with the Secretary's request.
- (5) If a person is charged with an offence under the *Crimes Act 1969* and the Commissioner of Police is aware that the person is a teacher, the Commissioner must promptly give the Secretary written notice of the following particulars—
- (a) the person's name; and
 - (b) if the person is convicted of the offence—
 - (i) particulars of the offence; and
 - (ii) the date on which the person is convicted; and
 - (iii) the court that convicted the person; and
 - (iv) the penalty imposed by the court; and
 - (c) if the person appeals a conviction for the offence, and the appeal is decided or otherwise ends—
 - (i) particulars of the offence; and
 - (ii) the date on which the appeal was decided or otherwise ended; and
 - (iii) if the appeal was decided—the court that decided the appeal; and
 - (iv) if the appeal was decided—particulars of the decision.

DIVISION 3

REGISTRATION AS AN APPROVED TEACHER

42. Application for registration as an approved teacher

- (1) A person who wants to be registered as an approved teacher must apply to the Secretary.
- (2) The application must—
 - (a) be made in the form that is approved by the Secretary; and
 - (b) be accompanied by the evidence of the person's eligibility for registration that is specified in the application form; and

- (c) be accompanied by the evidence of the person's suitability for registration that is specified in the application form (a character reference, for example); and
 - (d) be accompanied by any application fee that is fixed by a regulation.
- (3) The Secretary may require the person—
 - (a) to provide any other information that the Secretary reasonably requires to consider the application; and
 - (b) to confirm any aspect of the application by statutory declaration.
- (4) Despite subsection (1)—
 - (a) if a person's application for registration as an approved teacher is refused, the person may not reapply for registration within 1 year after the person's application is refused; and
 - (b) if a person's registration as an approved teacher is cancelled, the person may not apply for re-registration within 1 year after the person's registration is cancelled.
- (5) The Secretary must promptly consider every application and decide to—
 - (a) grant—
 - (i) if the application is for registration as a teacher—registration or conditional registration as a teacher; or
 - (ii) if the application is for conditional registration as a teacher—conditional registration as a teacher; or
 - (iii) if the application is for registration as the holder of a limited authority to teach—a limited authority to teach; or
 - (b) refuse to grant the application.
- (6) The Secretary may impose conditions on the grant of registration as a teacher, or on the grant of a limited authority to teach, including for example—
 - (a) a condition that requires the person to successfully complete a training course; or
 - (b) a condition that requires the person to be supervised for a period of time; or
 - (c) a condition that restricts the subjects that the person can teach; or
 - (d) a condition that restricts the educational institutions at which the person can teach.
- (7) The Secretary must promptly advise the person, in writing, of the Secretary's decision on the person's application.
- (8) If the Secretary decides to grant the person's application, the Secretary must—

- (a) enter the person's details in the teacher register; and
- (b) issue a certificate of registration to the person.

43. Renewal of registration as an approved teacher

- (1) Registration as an approved teacher expires on the date that the Secretary specifies in the approved teacher's certificate of registration, which may be no more than—
 - (a) in the case of registration as a teacher—3 years after the date on which the certificate of registration is issued; or
 - (b) in the case of conditional registration as a teacher, or as the holder of a limited authority to teach—1 year after the date on which the certificate of registration is issued.
- (2) Registration may be renewed from the date on which it expires.
- (3) However, conditional registration may only be renewed so that the total period of conditional registration is no more than 3 years, excluding any period when the conditional registration is suspended.
- (4) A person who wants to renew their registration must apply to the Secretary on or before the day on which their registration expires.
- (5) The application must—
 - (a) be made in the form that is approved by the Secretary; and
 - (b) be accompanied by any application fee that is fixed by a regulation.
- (6) The Secretary may require the person—
 - (a) to provide any other information that the Secretary reasonably requires to consider the application; and
 - (b) to confirm any aspect of the application by statutory declaration.
- (7) In the case of an application to renew conditional registration, if the Secretary is satisfied that it is appropriate to do so, the Secretary may remove any or all of the conditions that apply to the registration.

44. The teacher register

- (1) The Secretary must maintain a register (the “**teacher register**”) that contains at least the following information about each approved teacher—
 - (a) the name and address of the approved teacher; and
 - (b) the type of registration that the approved teacher has; and
 - (c) any conditions that apply to the approved teacher's registration; and
 - (d) the qualifications of the approved teacher; and

- (e) the courses undertaken, and grades achieved, in relation to those qualifications; and
 - (f) the date on which the approved teacher was registered.
- (2) The Secretary must—
- (a) allow the teacher register to be inspected at the times and places decided by the Secretary, on the payment of any fee fixed by the Secretary; and
 - (b) provide certificates in relation to the status of approved teachers, on the payment of any fee fixed by the Secretary.

45. Changing the teacher register

- (1) The Secretary may change the details of an approved teacher in the teacher register only to—
- (a) record any change to the approved teacher's name or address; or
 - (b) record new qualifications gained by the approved teacher; or
 - (c) record the renewal of the approved teacher's registration; or
 - (d) record disciplinary action taken against the approved teacher, and the penalties imposed; or
 - (e) comply with an order of a court; or
 - (f) move the name of an approved teacher from the list of current approved teachers to the list of former approved teachers if—
 - (i) the approved teacher resigns; or
 - (ii) the approved teacher dies; or
 - (iii) the approved teacher does not renew their registration; or
 - (iv) the approved teacher's registration is cancelled.
- (2) A person commits an offence if the person—
- (a) makes a false or misleading entry in the teacher register; or
 - (b) causes a false or misleading entry to be made in the teacher register; or
 - (c) accesses the teacher register without lawful authority.
- (3) The maximum penalty for the offence is a fine of \$1000, or imprisonment for 3 months, or both.
- (4) A person commits an offence if the person—
- (a) is registered under this Act; and
 - (b) fails to notify the Secretary of any change of name or address within 1 month of the change happening.
- (5) The maximum penalty for the offence is a fine of \$20.

DIVISION 4
MONITORING PERFORMANCE OF APPROVED TEACHERS

46. What this division is about

- (1) This division is about a system for monitoring the performance of approved teachers to ensure that—
 - (a) professional standards for teachers are maintained; and
 - (b) any cases of noncompliance with the professional standards are dealt with according to the principles of natural justice.
- (2) To remove any doubt—
 - (a) if a matter may be dealt with under this division or under the Public Service Act, the matter is to be dealt with under this division; and
 - (b) an approved teacher may be dealt with under this division, and also dealt with for the commission of an offence, for the same act or omission.

47. Approved teachers charged with, or convicted of, a sexual crime

- (1) The Secretary must suspend a person's registration as an approved teacher immediately after the Secretary becomes aware that the person has been charged with a sexual crime that involves a child.
- (2) If the Secretary becomes aware that the charge has been dropped, the Secretary must immediately re-register the person.
- (3) The Secretary must cancel a person's registration as an approved teacher immediately after the Secretary becomes aware that the person has been convicted of a sexual crime that involves a child.
- (4) The Secretary must do so even if the person appeals against the conviction.
- (5) However, if the Secretary becomes aware that the conviction has been quashed or overturned on appeal, the Secretary must immediately re-register the person.

48. Complaints about teacher performance

- (1) The Secretary may start action under this division against an approved teacher who—
 - (a) does not comply with the professional standards for teachers; or
 - (b) does not comply with a condition that applies to the approved teacher's registration; or

- (c) commits an offence that is in any way associated with the duties of the approved teacher.
- (2) The Secretary may start action under this division—
 - (a) on his or her own initiative; or
 - (b) when the Secretary receives a complaint from—
 - (i) a student of the approved teacher; or
 - (ii) the parent of a student of the approved teacher; or
 - (iii) another approved teacher; or
 - (iv) the principal of the educational institution where the approved teacher is teaching.
- (3) Even if the person who made a complaint informs the Secretary that they want to withdraw their complaint, the Secretary, at his or her discretion, may continue to take action under this division.

49. Order to appear before a complaints assessment committee

- (1) If the Secretary is reasonably satisfied that a complaint made against an approved teacher is not a frivolous or vexatious complaint, the Secretary may order the approved teacher to appear before a complaints assessment committee, which will hear proceedings in relation to the complaint.
- (2) The order must be in writing and state—
 - (a) the act or omission that is alleged to have been committed by the approved teacher; and
 - (b) the facts on which the complaint is based; and
 - (c) the time, date and place of the complaints assessment committee hearing.
- (3) The order must be given to the approved teacher at least 7 days before the complaints assessment committee hearing is to begin.
- (4) If all reasonable attempts to give the order to the approved teacher have failed, the order may instead be published in a newspaper, at least 7 days before the complaints assessment committee hearing is to begin.
- (5) The newspaper is to be one that is circulating in the area where the approved teacher was last known to live.
- (6) If the Secretary is reasonably satisfied that a complaint made against an approved teacher is a frivolous or vexatious complaint, the Secretary must inform the person who made the complaint, in writing, that the Secretary is not going to take any action under this division for that reason.

50. Establishing a complaints assessment committee

- (1) The Secretary establishes a complaints assessment committee by a written order.
- (2) A complaints assessment committee must consist of—
 - (a) a person appointed by the Secretary; and
 - (b) a person appointed by the approved teacher; and
 - (c) a person appointed by the committee of the school association.
- (3) However, none of the following persons can be appointed as a member of a complaints assessment committee—
 - (a) the complainant; or
 - (b) any of the witnesses to be called in the hearing; or
 - (c) the principal; or
 - (d) any other person who has any interest that may conflict with a fair and impartial hearing of the charges made against the approved teacher.
- (4) The order that establishes a complaints assessment committee must specify which member of the complaints assessment committee is to be the chairperson of the complaints assessment committee.

51. Proceedings before a complaints assessment committee

- (1) The complaints assessment committee must conduct its proceedings in the presence of the approved teacher unless, in spite of being given written notice of the proceedings, the approved teacher does not attend the proceedings.
- (2) However, if the approved teacher shows a sufficient reason why the approved teacher was prevented from attending the proceedings, the approved teacher is entitled to a rehearing.
- (3) The complaints assessment committee must conduct its proceedings with as little formality and technicality as possible, given the need to properly and fairly consider the complaint made against the approved teacher.
- (4) The approved teacher may—
 - (a) be represented by a person who is not a legal practitioner; and
 - (b) question witnesses; and
 - (c) make a statement in his or her defense, either orally or in writing.
- (5) The complaints assessment committee must keep a written record of its proceedings, in which it records—
 - (a) the statements of the approved teacher and all witnesses; and

- (b) any reports relating to the approved teacher that are tendered at the proceedings.
- (6) The complaints assessment committee is not bound by the rules of evidence, but may inform itself in any way it considers appropriate.
- (7) The standard of proof in the proceedings is on the balance of probabilities.
- (8) If the complaints assessment committee is satisfied that the complaint has been proved, the committee may consider any conduct of the approved teacher in the past when deciding what recommendation to make to the Secretary as to the action to be taken against the approved teacher.
- (9) After considering the complaints assessment committee's recommendation, the Secretary may decide—
 - (a) to reprimand the approved teacher; or
 - (b) to order the registration of the approved teacher to be made subject to the conditions that the complaints assessment committee considers appropriate in the circumstances; or
 - (c) to order the registration of the approved teacher to be suspended for the period that the complaints assessment committee considers appropriate in the circumstances; or
 - (d) to order the registration of the approved teacher to be cancelled.
- (10) The Secretary must inform the approved teacher—
 - (a) of the Secretary's decision; and
 - (b) that the approved teacher may appeal the decision in accordance with section [52](#).

52. Appeal against decisions

- (1) A person may appeal to the Public Service Board of Appeal against any of the following decisions of the Secretary—
 - (a) a decision to refuse the person's application for registration as an approved teacher;
 - (b) a decision to impose conditions on the person's registration as an approved teacher;
 - (c) a decision to suspend the person's registration as an approved teacher;
 - (d) a decision to cancel the person's registration as an approved teacher.
- (2) The appeal must be made as required by part V of the Public Service Act.
- (3) The Board of Appeal has jurisdiction to hear and determine (in accordance with Part V of the Public Service Act) every appeal that is made under this section.

DIVISION 5
OFFENCES

53. Wrongfully claiming to be an approved teacher

- (1) A person commits an offence if—
 - (a) the person claims to be an approved teacher (including by describing himself or herself as an approved teacher, for example); and
 - (b) the person is not registered under this Act.
- (2) The maximum penalty for the offence is a fine of \$1000, or imprisonment for 3 months, or both.

54. Wrongfully employing person without registration as an approved teacher

- (1) A person commits an offence if the person—
 - (a) employs, or offers employment to, another person as an approved teacher; and
 - (b) knows that the other person is not registered as an approved teacher.
- (2) The maximum penalty for the offence is a fine of \$1000, or imprisonment for 3 months, or both.

CHAPTER 5

NATIONAL QUALIFICATIONS FRAMEWORK

55. **Function of the Minister—national qualifications framework**

- (1) The Minister must, by a notice published in the Education Gazette, approve a national qualifications framework for use in the Cook Islands.
- (2) The Minister may approve the use of a qualifications framework that is developed in the Cook Islands or developed overseas (the New Zealand Qualifications Framework, for example).
- (3) A “**national qualifications framework**” is a document that defines qualifications by reference to the desired learning outcomes for each qualification.
- (4) The Minister is responsible for establishing, and maintaining, a system that provides for a consistent approach to the development, award and recognition of qualifications.
- (5) The system must, among other things, provide for—
 - (a) ensuring the quality of qualifications, so that the qualifications are comparable with internationally recognised qualifications; and
 - (b) enabling Cook Islanders to enter and leave the education system at different times in their lives, in order to allow for individual circumstances and rates of development; and
 - (c) promoting a culture of lifelong learning, to enable all Cook Islanders to develop to their full potential in order to support the economic and social development of the Cook Islands; and
 - (d) allowing for the recognition of prior learning, experience and achievements towards the award of a qualification; and
 - (e) providing pathways between different qualifications, in order to allow for the career development of all Cook Islanders; and
 - (f) ensuring the effectiveness, efficiency and quality of the education system.
- (6) A regulation may prescribe requirements for—
 - (a) educational institutions; or
 - (b) courses; or
 - (c) training providers and individual teachers; or
 - (d) examinations.
- (7) For example, these requirements may include processes for registration, accreditation, monitoring and auditing.

CHAPTER 6

HIGHER EDUCATION

56. Functions of the Minister—higher education system

- (1) The Minister is responsible for establishing, and maintaining, a system for higher education that is—
 - (a) relevant to the needs of the public and private sectors of the economy; and
 - (b) consistent with the economic and social goals, and priorities, of the Government.
- (2) The system must, among other things, provide for—
 - (a) formulating policy on higher education, after consulting key stakeholders; and
 - (b) liaising with the public and private sectors of the economy about labour market needs and human resources development; and
 - (c) co-ordinating the long-term development of higher education (including through financial incentives to individuals or for group projects, for example); and
 - (d) planning for the funding of higher education, including the recurrent and development needs of Government educational institutions that provide higher education; and
 - (e) promoting coordination among—
 - (i) the various parts of the education system; and
 - (ii) educational institutions that provide higher education; and
 - (f) ensuring the prescribed standards of teaching, assessment and grading are adhered to in order to minimise variability between educational institutions that provide higher education; and
 - (g) monitoring and evaluating the performance of the system for higher education in order to ensure the successful performance of all education activities; and
 - (h) initiating, supporting and conducting research in the area of higher education, and disseminating the results of the research in order to enhance the quality and relevance of the system for higher education; and
 - (i) establishing links with international educational institutions to draw from their experience in the development of the system for higher education; and

- (j) guiding the development of new and emerging vocations to meet the requirements of an ever-changing economy; and
- (k) developing a culture that fosters entrepreneurial and creative skills; and
- (l) encouraging collaboration between business and the providers of education.

CHAPTER 7

LEGAL PROCEEDINGS

57. Appointments and authority

- (1) It is not necessary to prove the appointment of the following persons—
 - (a) the Minister;
 - (b) the Secretary;
 - (c) a member of a committee of a school association;
 - (d) a member of a complaints assessment committee.
- (2) It is not necessary to prove the authority of the following persons to do anything under this Act—
 - (a) the Minister;
 - (b) the Secretary;
 - (c) a member of a committee of a school association;
 - (d) a member of a complaints assessment committee.

58. Signatures

A signature purporting to be the signature of any of the following persons is evidence of the signature it purports to be—

- (a) the Minister;
- (b) the Secretary;
- (c) a member of a committee of a school association;
- (d) a member of a complaints assessment committee.

59. Evidentiary certificates

A certificate that purports to be signed by the Secretary and is to the effect that—

- (a) a specified person has completed a specified course or programme of education; or
- (b) on a specified date, a specified school was, or was not, a registered school; or
- (c) on a specified date, a specified person was, or was not, an approved teacher; or

- (d) on a specified date, specified conditions applied to the registration of a school; or
- (e) on a specified date, specified conditions applied to the registration of an approved teacher; or
- (f) there is a specific entry in the teacher register in relation to an approved teacher; or
- (g) the Secretary made a specific decision in relation to an approved teacher; or
- (h) a specified document is a copy of the professional standards for teachers that were in force on a specified day or during a specified period;

is evidence of those matters, until the contrary is proven.

CHAPTER 8

MISCELLANEOUS PROVISIONS

60. Trespassing on or disturbing schools

- (1) A person commits an offence if the person is on the premises of a school without lawful authority, unless the person has a reasonable excuse.
- (2) A person commits an offence if the person intentionally disturbs the good order or management of a school, unless the person has a reasonable excuse.
- (3) A person commits an offence if the person intentionally abuses or threatens a staff member of a school, in the presence or hearing of a student of the school who is at the time in question—
 - (a) on the school's premises; or
 - (b) at another place where students of the school are assembled for educational purposes.
- (4) The maximum penalty for an offence against this section is a fine of \$1000.
- (5) Subsections (2) and (3) do not apply to a person who was, at the time in question, a student of the school.

61. False or misleading information

- (1) A person commits an offence if the person gives false or misleading information (either orally or in a document) to the Minister, the Secretary or a principal.
- (2) The maximum penalty for the offence is a fine of \$1000, or imprisonment for 3 months, or both.

62. Protection from liability

- (1) The following persons are not civilly liable for an act done, or omission made, honestly and without negligence under this Act—
 - (a) the principal of a school;
 - (b) a member of a school association for a school.
- (2) If subsection (1) prevents civil liability attaching to a person, the liability attaches instead to—
 - (a) if the school is a Government school—the Crown; or
 - (b) if the school is a private school—the private school's governing body.

63. Corporal punishment

A person who is at an educational institution must not—

- (a) verbally abuse any student who is attending the educational institution; or
- (b) use force, by way of correction or punishment, against any student who is attending the educational institution.

64. Delegation of powers

- (1) This section is about a person (the “**delegator**”) who delegates a power to another person (the “**delegate**”).
- (2) A delegation may be made in favour of—
 - (a) a person or body, by name; or
 - (b) the holder of a specified position, by reference to the title of that position.
- (3) If a power is delegated to the holder of a specified position—
 - (a) the delegation does not stop having effect only because the person who was the holder of the specified position when the power was delegated stops being the holder of the specified position; and
 - (b) the power may be exercised by the person who, for the time being, is occupying or acting in the specified position.
- (4) If the person who was the delegator when a delegation was made stops being the delegator—
 - (a) the delegation continues in force; and
 - (b) the person who, for the time being, is occupying or acting in the position of the delegator is taken to have made the delegation.
- (5) A delegation may be general or limited.
- (6) The delegator may revoke a delegation, wholly or partly.
- (7) A delegated power may be exercised only in accordance with any conditions to which the delegation is subject.
- (8) If the exercise of a power is dependent on the delegator’s opinion, belief or state of mind, then, when exercised by the delegate, the power is dependent on the delegate’s opinion, belief or state of mind.
- (9) When exercising a delegated power, the delegate may do anything that is incidental to the delegated power.
- (10) Laws apply to the delegate in the exercise of a delegated power as if the delegate were the delegator.
- (11) A delegated power that is properly exercised by the delegate is taken to have been exercised by the delegator.

- (12) The delegator may exercise a power that has been delegated, despite the delegation.
- (13) The delegation of a power does not relieve the delegator of the responsibility to ensure that the power is properly exercised.
- (14) A delegation, or a revocation of the delegation, must be in, or evidenced by, a document signed by the delegator.
- (15) A document purporting to be, or to contain, a delegation, or the revocation of a delegation, is evidence of the delegation or revocation.
- (16) A document signed by the delegator that states something in relation to a delegation is evidence of the thing.
- (17) All conditions and preliminary steps that are required for the exercise of a delegation are presumed to have been satisfied and performed, unless the contrary is proved.
- (18) A delegated power that purports to have been exercised by the delegate is taken to have been properly exercised by the delegate, unless the contrary is proved.

65. Boards of trustees for Government schools

- (1) This section applies if the Minister considers a board of trustees would be of benefit to a Government school.
- (2) The Minister may create a board of trustees for the school, by a notice published in the Education Gazette.
- (3) The notice must provide for—
 - (a) the name of the board; and
 - (b) the exercise by the board of the duties of management of the school that are specified in the notice, subject to any specified conditions; and
 - (c) the membership of the board (which may include representatives of the Ministry, the parents of the students, the communities served by the school, or other organizations, for example); and
 - (d) the way that continuity of the membership of the board will be provided; and
 - (e) the revocation of the appointment of, the retirement of, and resignation of members of the board, and the appointment of new members, and of temporary members in case of absence or inability to act of any member; and
 - (f) the duties and powers of the board and of the other persons (if any) in whom any land or other property is vested in trust for the school, and in relation to the use of the buildings and grounds of the school at times when they are not required to be used for purposes of education; and

- (g) any other matter that the Minister considers necessary for the constitution, duties and procedure of the board (including the delegation by the board to committees of the duties of management, for example).
- (4) A board of trustees is a body corporate.

66. Education Gazette

- (1) The Ministry must publish a document called the “Education Gazette” that contains educational and other information.
- (2) The Ministry must issue a copy of the Education Gazette to every school.

67. Incorporation of society of teachers

Any body of teachers may apply for incorporation, under the *Incorporated Societies Act 1994*, as a society for the promotion of the welfare and interests of teachers and the teaching profession.

68. Repeal

The following Acts are repealed—

- (a) the Education Act 1986-1987;
- (b) the Education Amendment Act 1989;
- (c) the Education Amendment Act 1992;
- (d) the Education Amendment Act 2003.

69. Regulations

- (1) The Queen’s Representative may, by order in Executive Council, make regulations about any matter that is—
 - (a) required or permitted to be prescribed by this Act; or
 - (b) necessary or convenient for giving effect to this Act.
- (2) For example, regulations may be made—
 - (a) about the management, administration and control of the operations of a Government educational institution; or
 - (b) to clarify any aspect of the procedures for monitoring the performance of approved teachers; or
 - (c) to create an entity to perform duties under this Act; or
 - (d) to prescribe fees payable under this Act; or
 - (e) to prescribe offences, and the penalties (of not more than \$1000) for those offences.

CHAPTER 9

THE TRANSITION FROM THE 1986 ACT

70. What this chapter is about

- (1) This chapter provides for the transition of rights and liabilities under the 1986 Act to this Act, when the 1986 Act is repealed.
- (2) The “**1986 Act**” is the *Education Act 1986-1987*.

71. Advisory and technical committees

A committee that was established under section 6 of the 1986 Act, and was in existence immediately before the commencement of this section, continues in existence as if it were set up under section [6\(3\)](#).

72. Applications

An application that was made under the 1986 Act, but was undecided as at the commencement of this section, is taken to be an application made under this Act.

73. Appointments

If, immediately before the commencement of this section, a person held an appointment under the 1986 Act, the person’s appointment continues (according to its terms) under this Act.

74. School associations and their committees

A school association, or a committee of a school association, that was established under the 1986 Act, and was in existence immediately before the commencement of this section, continues in existence as if it came into existence under section [24](#).

75. Curriculum

A curriculum that, immediately before the commencement of this section, applied to a Government educational institution under the 1986 Act is taken to be an education guideline that applies to the educational institution under this Act.

76. Decisions

- (1) A decision that was in force under the 1986 Act, immediately before the commencement of this section, continues in force as if it were made under this Act.
- (2) A “**decision**” includes for example—
 - (a) a decision to establish or register an educational institution; and
 - (b) a decision to register a teacher; and
 - (c) a decision to suspend or expel a student; and
 - (d) an agreement, approval, authorisation, certificate, delegation, exemption, instruction, order and rule.

77. Enrolments

If, immediately before the commencement of this section, a student was enrolled at a school, the student’s enrolment continues under this Act.

78. Proceedings for appeals or offences

- (1) If, immediately before the commencement of this section, proceedings for an appeal or an offence under the 1986 Act could legally have been started, the proceedings may be started under this Act, as if the decision being appealed or the offence were under this Act.
- (2) Proceedings for an appeal or an offence under the 1986 Act may be continued under that Act, as if this Act had not commenced.

79. References to the Education Act 1986-1987

A reference to the 1986 Act in any Act or document may, if the context permits, be taken to be a reference to this Act.

80. References to the Department of Education

A reference to the Department of Education in any Act or other document may, if the context permits, be taken to be a reference to the Ministry of Education.

81. Teacher’s register

The register kept under section 40 of the 1986 Act is taken to be the teacher register under this Act.

82. Regulations

Any regulations that were in force under the 1986 Act, immediately before the commencement of this section, continue in force, with any necessary amendment, as if they were made under this Act.