# EDUCATION ACT, 2004

*(Act 13 of 2004)*

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# EDUCATION ACT, 2004

*(Act 13 of 2004)*

*I assent*

J. A. Michel
President

*23rd December, 2004*

**AN ACT to provide for the organisation, promotion and development of education in Seychelles, to repeal the Education Act (Cap 68) and to provide for connected matters.**

**ENACTED** by the President and the National Assembly.

## Part 1- Preliminary

**1.** This Act may be cited as the Education Act, 2004 and shall come into operation on such date as the Minister may, by notice in the Official Gazette, appoint.

Short title and commencement

Interpretation

2. In this Act -

"adult education" means -

(a) continuing education; and

(b) training activities

organised on a part-time basis for persons over the compulsory school age and designed to enhance their knowledge, skills and cultural awareness but does not include tertiary education;

"class", in relation to a particular student and a particular subject, means the teaching group in which the student is regularly taught that subject or, where there are two or more groups, such one of them as may be designated by the headteacher of the school;

"compulsory school age" means the prescribed age at which a student is obliged to attend school;

"director" means the head of an educational institution providing post-secondary or further education and training;

"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 institution" means any school, training centre or other institution of education and training;

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

"formal early childhood education" means education provided either in a primary school or in an institution specially designed for the purpose and suitable to the needs of children of or more than three years, but under eight years, of age;

"headteacher" means the head of a primary or secondary school;

"lecturer" or "instructor" means a person who has been appointed to teach in a post-secondary or further education and training institution;

"legal guardian", in relation to a child, means any person who is liable to maintain, or has the custody of, the child;

"Minister" means the Minister responsible for Education;

"National Curriculum Advisory Committee" means the committee constituted under section 78;

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

"prescribed" means prescribed by regulations;

"Principal Secretary" means the person appointed by the President as Principal Secretary, Education;

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

"primary student" means a child who at the beginning of the academic year has attained the age of six years or will attain that age on December 31 of that year;

"private educational institution" means a private school or educational institution or class regularly attended by 5 or more students which is owned, managed and financed by an individual or a body incorporate or unincorporate and is registered under this Act;

"post-secondary education" means full time education suited to the requirements of students who have completed secondary education;

"secondary education" means full time education suited to the requirements of students of secondary school age who have completed primary education;

"special education" means educational programmes designed to meet the special needs of those students who by reason of their intellectual, communicative, behavioural, physical or multiple exceptionalities are unable to follow normal educational programmes;

"State schools" means schools which are maintained by the State and are open to the public as provided by this Act;

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

"training centre" means a school or other institution that provides for education and training in technical and vocational fields;

"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 are enrolled in a post-secondary education and training institution;

(b) university education and instruction normally available at institutions for teacher training, technical and vocational education and training.

**Part 2 - General administration**

Goals and objectives

**3.**(1) The Minister shall, within the limits of available resources, pursue for the education system the general goals and objectives specified in subsection (2).

(2) The general goals and objectives referred to in subsection (1) are -

(a) the establishment of a comprehensive system of education and training reflecting

universal and national values which promote the complete development of the person and equip the person to participate fully in social and economic development;

(b) the establishment of institutions for achieving the goals referred to in paragraph (a);

(c) the execution of the educational policy of the government.

Responsibilities of the Minister

**4.**(1) The Minister shall be responsible for the administration of this Act.

(2) The Minister shall also be responsible for -

(a) establishing State primary and secondary schools and determining their location and classification;

(b) regulating the admission of students to State schools;

(c) establishing, maintaining and assisting in the establishment and maintenance of educational institutions including –

(i) institutions for the training of teachers;

(ii) technical institutions and training centres for technical and vocational education and training;

(d) establishing a teachers' scheme of service;

(e) evaluating the work of State schools with particular reference to the curriculum followed therein and providing for examinations and testing of students and the award of certificates.

**Powers of the Minister**

**5.**(1) In the performance of functions under this Act, the Minister may –

(a) regulate the conduct of State schools and private educational institutions;

(b) arrange for the professional training of teachers;

(c) designate the grades or classes and special programmes offered in State schools;

(d) constitute advisory bodies from time to time on educational or other matters related to education;

(e) prescribe textbooks, other educational materials and practices used or followed in educational institutions;

(f) establish State schools, other educational institutions and classes or close them down where necessary;

(g) prescribe the curriculum of State schools and other educational institutions;

(h) provide for any other matter or take such action as is necessary for carrying into effect the provisions of this Act.

(2) In exercising the powers conferred by subsection (1), the Minister may consult such organisations as the Minister considers appropriate.

Responsibilities of the Principal Secretary

6.(1) The Principal Secretary shall, subject to the directions of the Minister, be charged with the implementation of the provisions of this Act.

(2) The Principal Secretary shall -

(a) ensure that schools and other educational institutions are managed in a proper and efficient manner;

(b) develop principles and procedures for implementing policies and managing educational institutions;

(c) delegate authority to officers of the Ministry for managing various aspects of the education system including the registration of, and other matters pertaining to, private schools;

(d) initiate curriculum innovation and reform and the establishment of appropriate procedures for evaluating instructional and other activities of schools and other educational institutions;

(e) ensure that school premises and property are protected against improper use;

(f) ensure the pastoral care of students in schools and other educational institutions;

(g) ensure compliance with the provisions of this Act and regulations made thereunder;

(h) perform such other functions under this Act as the Minister may from time to time assign.

Delegation by the Minister, etc.

7.(1) The Minister may delegate to the Principal Secretary any function conferred on the Minister by or under this Act:

Provided that the Minister may exercise any or all of the functions so delegated where the Minister considers it expedient to do so.

(2) The Minister may give general or special directions to any officer of the Ministry in relation to the performance of functions under this Act.

Establishment and maintenance of primary and secondary schools

8. Primary and secondary schools which are State schools shall be established and maintained in accordance with the provisions of this Act.

Management of State primary and secondary schools

9.(1) All primary and secondary schools which are State schools shall be managed by the Ministry.

(2) Post-secondary institutions for which the Ministry is responsible shall be managed by the Ministry.

Establishment and maintenance of post-secondary and tertiary institutions

10. The Minister may establish and maintain, in accordance with the provisions of this Act, post-secondary educational institutions and other institutions of higher education at such places as the Minister may determine.

Stages of State education

**11.**(1) Subject to subsection (2), the system of State education shall consist of the following stages –

(a) formal early childhood education;
(b) primary education;
(c) secondary education;
(d) post-secondary education; and
(e) tertiary education.

(2) The Minister may include as part of the system of State education -

(a) non-formal early childhood education;
(b) special education;
(c) adult education; and
(d) distance education.

Early childhood educational services

**12.**(1) Subject to the provisions of section 18, a private educational institution may provide an early childhood educational services programme for children under 5 years of age.

(2) An institution referred to in subsection (1) -

(a) may charge fees in respect of the programme;

(b) shall comply with the regulations relating to the services provided by the institution.

Non-formal early childhood services

**13.** Non-formal early childhood services for children below the age of 3 years shall be subject to inspection and monitoring by the Ministry.

Regulation of early childhood services

**14.**(1) The Minister may by regulations provide for the following matters relating to early childhood educational services—

(a) the academic and professional qualifications of teachers or other persons employed in such services;

(b) the records to be submitted to the Minister by a person providing such services;

(c) the safety standards to be observed by a person providing such services;

(d) the health requirements pertaining to the environment in which, and persons by whom, such services are provided;

(e) the buildings, premises, equipment and furnishings used in such services;

(f) the ratio of staff to students;

(g) the needs of children of specified ages receiving such services.

Special education

**15.**(1) The Minister shall provide special education programmes for students of compulsory school age who, by reason 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.

Continuation of State schools, etc.

**16.** All State schools and educational institutions existing at the commencement of this Act shall be deemed to have been established under this Act and shall continue as State schools or educational institutions, as the case may be.

## Part 3- Private educational institutions

Application of Act to private schools etc.

**17.** This Act applies to every private school or educational institution providing services relating to -

(a) early childhood education;
(b) primary education;
(c) special education;
(d) secondary education;
(e) post-secondary education;
(f) adult and distance education; or
(g) vocational education and training.

Approval

**18.** No person shall operate a private school or educational institution to which this Act applies unless the school or institution is registered under this Act with the approval of the Minister.

Presumption

**19.** Any person providing, for profit or otherwise, educational services for his or her own account and in the case of a body corporate for its own account, shall be deemed to be operating a private school or educational institution.

Existing private schools and educational institutions

**20.**(1) A person who, at the commencement of this Act, is operating a private school or educational institution shall, within six months of the commencement of this Act or such further period as the Minister may by notice allow, comply with the provisions of section 18.

(2) A person who contravenes section 18 or subsection (1) commits an offence and is liable on conviction to a fine of an amount not exceeding R 20,000 or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment.

Register of private educational institutions

**21.**(1) Where a private school or educational institution is registered, the Principal Secretary shall issue a certificate of registration to the proprietor of such school or institution. The Principal Secretary shall keep a register of such schools and educational institutions to be known as the Register of Private Educational Institutions.

(2) There shall be entered in the Register of Private Educational Institutions the particulars of every such private school or educational institution.

(3) The Principal Secretary shall annually certify a copy of the Register of Private Educational Institutions and a notice of the names of the private schools and educational institutions so certified shall be published in the Gazette.

(4) The Principal Secretary shall certify any amendment of any entry in the Register approved by the Minister under section 23(1) and a notice of the amendment shall be published in the Gazette.

Application for registration, inspection, approval etc

**22.** (1) An application for the registration of a private school or educational institution shall be made by or on behalf of the proprietor of the private school or educational institution in the form provided by the Ministry and shall contain the required particulars.

(2) The Principal Secretary shall, upon the receipt of an application under subsection (1), cause the private school or educational institution to be inspected.

(3) Where a private school or educational institution in respect of which an application is made under subsection (1) has been inspected, the Minister shall, subject to any condition that he may specify, approve the registration of the school or educational institution if he is satisfied -

(a) that the standards laid down by the Ministry are observed; and

(b) the headteacher or director of the school or educational institution holds the required qualifications.

Approval of amendment of particulars

**23.**(1) The Minister may, at the request of the proprietor of a registered private school or educational institution, approve any amendment of the particulars registered upon payment of the relevant fee.

(2) Before any change in the educational services mentioned in the Register is made, the proprietor shall ensure that the school or educational institution meets the conditions of registration that apply to the educational service in respect of which the request is made.

Limitation of instruction

**24.** Where a request under section 23 is made for an amendment authorising the limitation of instruction to certain subjects or classes, the Minister may either refuse to grant the application or grant it subject to such conditions as the Minister may specify.

Number of students

**25.**(1) The Minister may determine the maximum number of students who may be admitted to educational services or categories of educational services provided by private schools and educational institutions.

(2) The capacity of, and the facilities available at, a private school or educational institution as declared by the proprietor in his application for registration shall not be reduced subsequently.

Certificate of registration

**26.**(1) The certificate of registration issued under section 21(1) shall state –

(a) the name of the proprietor of the private school or educational institution;

(b) the name and address of the school or educational institution;

(c) the educational services or categories of educational services the school or educational institution is authorised to provide;

(d) where applicable, the authorisations and conditions relating to the capacity and facilities and the maximum number of students who may be admitted.

(2) The certificate shall be displayed in a conspicuous place at the school or educational institution as the case may be.

Technical and vocational institutions

**27.** A certificate in respect of a private educational institution for technical and vocational education shall specify, where it concerns -

(a) secondary school instructional services in technical and vocational education and training, the programmes that it would provide;

(b) supplementary vocational training, the fields for which it would cater;

(c) general or vocational education and training at the tertiary level, the programmes it would provide.

Duration and renewal of registration

**28.**(1) The registration of a private school or educational institution is valid for a period of five years.

(2) The Minister shall renew for the same period a registration of a school or private educational institution held by a person who -

(a) applies in writing to the Minister within such time and in such manner as may be prescribed; and

(b) has complied with the provisions of this Act and the regulations made thereunder during the period preceding the date of the application for renewal.

Transferability

**29.** The certificate of registration of a private school or educational institution shall not be transferable except in accordance with section 23.

Information

**30.**(1) The proprietor of a registered private school or educational institution shall inform the Minister whenever the school or institution is unable to provide all or some of the educational services mentioned in the certificate of registration.

(2) Every such proprietor shall inform the Minister of any proposed amalgamation, sale or transfer affecting the school or institution and any change of name of the school or institution.

Official visits

**31.**(1) The Minister or the Principal Secretary or any officer authorised in writing by the Principal Secretary may, for the purpose of making enquiries, carrying out inspections and discharging any functions under this Act, enter the premises of any private school or educational institution.

(2) The proprietor of a private school or educational institution shall keep its premises open for any visit referred to in subsection (1).

(3) A person who obstructs, or makes a false representation or refuses to furnish any information required under this Act or regulations made thereunder to, any person carrying out his or her official duty commits an offence and is liable on conviction to a fine of an amount not exceeding R50,000.

Notice to comply

**32.** Where the Minister is satisfied that a private school or educational institution has ceased to be conducted in accordance with this Act or regulations made thereunder, the Minister may serve on the proprietor of the school or institution a notice requiring the proprietor to conduct the school or institution in accordance with the Act or the regulations, as the case may be, within the time specified in the notice.

Cancellation of registration

**33.** Where a proprietor having been served with a notice under section 32 fails, within the time specified in the notice or within such further time as the Minister may allow, to comply with the notice, the Minister shall cancel the registration of the private school or educational institution and inform the proprietor of the cancellation, the reasons therefor and the proprietor's rights under section 34.

Review

**34.**(1) The proprietor of a private school or educational institution whose application for registration or re-registration is refused or whose registration is cancelled may apply to the Supreme Court for a review of the decision to refuse the application or cancel the registration, as the case may be.

(2) The Supreme Court (Supervisory Jurisdiction over Subordinate Courts, Tribunals and Adjudicating Authorities) Rules shall apply to the making and determination of an application referred to in subsection (1).

Re-registration

**35.**(1) Where the registration of a private school or educational institution is cancelled pursuant to section 33, the

proprietor of the school or educational institution may, if the proprietor has complied with the notice that had been served under section 32, apply to the Minister for the re-registration of the school.

(2) The requirements of section 22 shall *mutatis mutandis* apply to an application under this section.

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

(4) Where the Minister is satisfied that the notice that has been served under section 32 has been complied with, the Minister may re-register the private school or educational institution subject to any condition that the Minister may specify.

Returns

**36.** The proprietor of a private school or educational institution shall furnish the Minister with returns containing such information and at such intervals as may be specified by regulations.

Health and sanitation

**37.** The Minister may, on the advice of the Minister responsible for Health, order the closure of any private school or educational institution or classroom thereof or the exclusion of certain pupils for a specified time with a view to preventing the spread of disease or any danger to health.

Disqualification of instructional staff

**38.**(1) A member of the instructional staff in a private school or educational institution shall possess at least the minimum qualifications required of a similar member in a comparable State school or educational institution.

(2) The Principal Secretary may, by notice addressed to the proprietor of a private school or educational institution,

declare any person who does not possess the minimum qualifications required under subsection (1) to be unsuitable for employment as a member of the instructional staff in a private school or educational institution and require that the person be not so employed.

(3) An appeal from a notice of the Principal Secretary under subsection (2) may be made to the Minister within 14 days of the receipt of such notice.

(4) The Minister may, after such inquiry as he thinks fit, confirm or vary the notice and the proprietor of the private school or educational institution shall give effect to the notice as confirmed or varied.

Complaints of discrimination

**39.**(1) Where a complaint is made by an interested party that a private school or educational institution has refused to admit a child or has expelled a student on account of the race, religion or political affiliation of, or on any other unreasonable ground of discrimination relating to, the child, student or parent, the Principal Secretary shall hold an inquiry into the complaint.

(2) The Principal Secretary shall communicate his or her determination in writing to the complainant and the relevant private school or educational institution and the determination may include such directions to the proprietor of the private school or educational institution as may be necessary to redress the grievance complained of.

(3) A proprietor to whom a direction is issued under subsection (2) shall comply with the direction.

(4) A person who contravenes subsection (3) is guilty of an offence and is liable on conviction to a fine of R50,000.

## Part 4 – Rights and responsiblities of students and parents

Right to education

**40.** All persons are entitled to receive an educational programme appropriate to their needs in accordance with this Act and regulations made thereunder.

Enrollment

**41.**(1) The Principal Secretary shall provide every child of compulsory school age or any person who is a resident of Seychelles with an educational programme in accordance with this Act.

(2) In implementing subsection (1), the Principal Secretary shall -

(a) enroll the child in an educational programme offered by the Ministry;

(b) direct the child to attend an educational programme offered by another educational institution where it is reasonable to do so.

Free tuition

**42.**(1) No tuition fee shall be charged in respect of a student attending a State primary or secondary school.

(2) Subsection (1) shall not preclude other charges being imposed at a State primary or secondary school with the approval of the Minister.

(3) Fees may be charged in respect of post-secondary education programmes in accordance with regulations.

(4) Government may grant scholarships and bursaries to students of post-secondary and tertiary levels in accordance with regulations.

**43.** Every student enrolled in a State school or educational institution shall - Students' responsibilities

(a) observe the code of conduct and other rules of the Ministry and the school;

(b) attend classes regularly and punctually; and

(c) participate diligently in the educational programme in which the student is enrolled.

**44.**(1) Every student shall be accountable – Students' accountability

(a) to the teacher, lecturer, instructor or other authorised person for his or her conduct on the school premises during school hours and during such hours as the teacher, lecturer, instructor or other authorised person is in charge of the student in class or while engaged in authorised school activities conducted during or outside school hours; and

(b) to the headteacher or director for his or her general conduct at any time that he or she is under the supervision of the school and members of the staff.

(2) Every student shall be under the general direction and control of any person under whose supervision students are placed on the authority of the headteacher or director.

**45.** Subject to this Act, parents may choose State schooling or private schooling for their children. Choice of education

Student record and report

**46.**(1) Every headteacher shall establish and maintai student record for each student enrolled in the school in accordan with the guidelines provided by the Principal Secretary.

(2) Every school shall provide the parents of a stude and the student with a periodic report on the student's academ performance and conduct.

(3) The report referred to in subsection (2) shall in such form and contain such information as the Princip Secretary may determine.

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

(a) a parent of a student;

(b) a student who is 18 years of age or oldc

(5) Subject to subsection (2), a student record is ope for the perusal of school and departmental officials for th performance of their functions and shall not be made available any other person or institution without the written permission the parent or, where the student is 18 years of age or older, of th student.

(6) Any person who discloses any information in student record in contravention of subsection (5) commits a offence and is liable on conviction to a fine of an amount n exceeding R20,000.

Parents' responsibilities

**47.**(1) A parent of a student attending a State school educational institution shall, at the request of a teacher headteacher, consult with the teacher or headteacher with respe to the student's educational programmes.

(2) Every parent shall inform the headteacher in writing of any medical or other condition peculiar to his or her child—

(a) on admission of the child; or

(b) as soon as the parent becomes aware of such condition.

(3) Every parent shall sign, and ensure compliance with, the code of conduct for students issued by the Ministry and rules made by the school or educational institution.

Damage to school property

**48.**(1) Every student in a State school or educational institution shall be responsible for any State 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 headteacher.

(2) If a student fails to comply with subsection (1), the Principal Secretary shall claim the value of the property from the parents of the student if a minor or from the student if the student has attained the age of 18 years.

(3) If the property of a State school is destroyed, damaged or lost due to the intentional or negligent act of two or more students who are minors acting together, their parents shall be jointly liable to pay damages in respect of the destruction, damage or loss of the property.

(4) If the property of a State school is destroyed, damaged or lost due to the intentional or negligent act of one or more students who are eighteen years or older -

(a) the single student; or

(b) the students who acted together,

as the case may be, shall be liable to pay damages in respect of the damage to or loss or destruction of the property.

Compulsory school attendance

**49.**(1) Every child shall attend school from the beginning of the school calendar in the school year until the child has completed the compulsory school age.

(2) Notwithstanding subsection (1), if the Minister is satisfied that it has become necessary to extend the compulsory school age in relation to any category of students, the Minister may by order in writing extend such age.

Admission to primary school

**50.** No child shall be admitted to a State primary school unless -

(a) the child has been registered under the relevant regulations;

(b) the child is accompanied on the day of admission by a parent or an adult authorised by a parent.

Admission to secondary school

**51.**(1) No child shall be admitted to a State secondary school unless the child has completed primary school.

(2) Notwithstanding subsection (1), a child may be admitted to a State secondary school on the written approval of the Principal Secretary on grounds of exceptional ability and consistently high academic performance as evidenced by -

(a) outstanding performance in termly and annual class assessments; and

(b) the written recommendation of the child's teachers.

(3) Notwithstanding subsections (1) and (2), a child who prior to his or her residence in Seychelles attended or gained admission to a secondary school or the equivalent of a secondary school may, on the written approval of the Principal Secretary, be admitted to a State secondary school.

**52.** No child shall be admitted to a State post-secondary institution unless - Admission to post-secondary institution

(a) the child has completed secondary school; and

(b) has satisfied the prescribed entry requirements.

**53.**(1) The headteacher of a school or the director of an educational institution shall maintain a Students' Register. Students' register

(2) The Students' Register shall include -

(a) upon admission of a student to a school or educational institution -

(i) the name and date of birth of the student and the student's national identity number;

(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 the student was transferred;

(vi) the class of the student at the date of leaving the school from which the student was transferred;

(vii) the class of the student at the date of leaving the school from which the student is admitted;

(viii) the student's blood group;

(b) upon the departure of a student from a school —

(i) the date of the student's departure;

(ii) the class of the student on the date of departure;

(iii) where appropriate, the school or other institution to which the student is being transferred.

Existence of contagious disease

**54.**(1) No student suffering from, or exposed to, a contagious disease shall be admitted to, or permitted to remain in, any school.

(2) Where the headteacher or director discovers or has reason to suspect the existence of a contagious disease, the headteacher or director shall immediately report the same to the parents of the student concerned, the Principal Secretary, Education and the Principal Secretary, Health.

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

(4) The medical certificate required by subsection (1) shall be issued free of charge when it is sought from a Government medical institution.

Temporary or permanent closure of schools

**55.**(1) Where as a result of –

(a) the total or partial destruction of a school building; or

(b) outbreak of an infectious or contagious disease; or

(c) any other similar event,

it is necessary to close the school or educational institution temporarily or permanently, the Minister may direct that the school or institution be so closed, and the school or institution shall, with effect from the date of the direction, be so closed.

(2) Where a school or educational institution is permanently closed, the Minister shall provide alternative accommodation to the students and staff affected by the closure.

Zoning of schools and transfers of students

**56.**(1) The Minister may, by regulations, provide for a scheme of zoning for the admission and transfer of students from and to State primary and secondary schools.

(2) The scheme of zoning shall link the place c residence of a student and the location of the school that the studer attends.

(3) The residence of a student shall be deemed to b the residence of the student's parents.

(4) A student of one school who seeks admission t another school shall not be admitted to that other school except o presentation of the transfer letter issued by the headteacher c the first mentioned school which letter shall be retained by th headteacher of the admitting school.

(5) A copy of the transfer letter shall be submitted t the Principal Secretary by the headteacher who issued it.

Duty of parent to cause attendance

**57.** It is the duty of the parent of every child c compulsory school age to cause the child to attend school regularl

Valid excuses from attendance

**58.** A student shall be excused from school attendanc if -

(i) the student is excluded from attendanc under any law;

(ii) the student is unable to attend schoc because of illness or danger of infection or

(iii) there are compelling family reasons.

Attendance officer

**59.** The Minister may, by order in writing, designat a member of the staff of a school as attendance officer.

Power to enter premises etc.

**60.** An attendance officer who has reasonable caus to believe that a person is acting in contravention of section 57, o presenting his or her authority, may at any time -

(a) enter any premises and make such enquiries as are necessary to determine whether a child of compulsory school age is frequenting, visiting, residing or employed on, the premises; and

(b) stop and question any child who appears to be of compulsory school age but is not at school.

**Offences against attendance officer**

**61.**(1) A person commits an offence if that person –

(a) assaults, obstructs or uses insulting, abusive or indecent language to -

(i) an attendance officer while performing his or her functions; or

(ii) any other person performing a duty imposed on that person by this Act in relation to the attendance of any child at school;

(b) being a parent, fails without reasonable cause when requested by an attendance officer to give information concerning the attendance of any child at school or any other matter relevant to such attendance; or

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

(2) A person who is convicted of an offence under subsection (1) is liable on conviction to a fine of an amount not

exceeding R50,000 or to 2 years' imprisonment or to both su fine and imprisonment.

Power to deliver absent student

**62.** A school attendance officer may, at the reque of the parent, apprehend and deliver to the school from which t student is absent or to the student's parent any student found abse from school not having been excused under section 58.

Duties of the attendance officer

**63.** An attendance officer shall -

(a) perform his or her duties under the directi of the Principal Secretary or t headteacher as the case may be;

(b) inquire into every suspected case of failu to attend school without excuse within h or her knowledge or when requested to so by the headteacher or the Princip Secretary;

(c) give written warning of the consequenc of failure to attend school to the parent the child who is not attending school;

(d) give written notice to the parent requiri the parent to cause such child to atte school.

Reports by headteachers

**64.** Every headteacher of a school shall -

(a) report to the attendance officer the nam age and residence of every child compulsory school age who has n attended school as required by law;

(b) furnish the Principal Secretary with such information as the Principal Secretary requires for the enforcement of compulsory education.

**Liability of parent**

**65.**(1) Where a parent of a child of compulsory school age who is not excused under section 58 neglects or refuses to cause the child to attend school, the parent commits an offence and is liable on conviction to a fine of an amount not exceeding R20,000.

(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 R25,000 with one or more sureties to be approved by the Court on condition that the person shall, after the expiration of five days, cause the child to attend school as required.

**Compulsory school age and offences**

**66.**(1) Subject to subsection (3), a person who employs a child of compulsory school age commits an offence and is liable on conviction to a fine not exceeding R50,000.

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

(3) Notwithstanding subsection (1), a person may employ a student of compulsory school age if the employment of the student is part of the school programme or other approved scheme of training.

(4) A student of compulsory school age shall not be permitted by a person to loiter on the licensed premises of the person where he carries on any business in connection with the sale, storage or conveyance of liquor.

(5) Any person who contravenes subsection
commits an offence and is liable on conviction to a fine of R50,(
or imprisonment for 2 years or to both such fine and imprisonm

Prosecutions under section 66

**67.** In any prosecution of an offence under sect
66 a statement as to the attendance or non-attendance at sch
of any student, signed by the headteacher of the school, shall
*prima facie* evidence of the facts stated therein.

Rules of conduct of students

**68.**(1) All schools and educational institutions shall
consultation with the Principal Secretary and in accordance w
the relevant regulations, formulate and enforce rules of cond
and discipline of the students.

(2) The rules referred to in subsection (1) shall co
into effect when they -

(a) are approved in writing by the Princi
Secretary; and

(b) are circulated to the parents of the stude
of the school or educational institution a
to the students where necessary.

Suspension of students

**69.**(1) The headteacher or the director of any State sch
or educational institution may, in accordance with regulations ma
in that behalf, suspend a student from school or institution.

(2) A headteacher or director who suspends a stud
shall report that fact in writing to the student's parents and
Principal Secretary and state the reason or reasons for su
suspension.

Action by the Principal Secretary

**70.** (1) The Principal Secretary may, havi
considered the report under section 69 (2), order that –

(a) the term of suspension be extended by a specified number of days to enable an inquiry to be held;

(b) the student be reinstated on a specified date if the Principal Secretary considers it just and reasonable to do so;

(c) the student be transferred to another school including a special school;

(d) the student be expelled.

(2) Where a student is suspended or expelled, in the case of a student who is within the compulsory school age the parents, or in the case of a student beyond the compulsory school age his representative, may make representations to the Principal Secretary with respect to the suspension or expulsion within 7 days thereof.

(3) The Principal Secretary shall make a decision within 7 days of the representation being made under subsection (2) and the student shall remain suspended or expelled during that period.

(4) The Principal Secretary shall inform the parent or the student of the right of appeal under subsection (5) at the time of notifying the decision under subsection (3).

(5) The parent or the student may, within 14 days of the receipt of the decision of the Principal Secretary, appeal to the Minister against the decision.

(6) The Minister may, having considered the appeal, either confirm the decision or vary the decision as he thinks fit.

## Part 5 – Rights and responsibilities of teachers, etc

Qualification of teachers

**71.** A person shall be qualified to be a teacher in State school only if that person holds the prescribed qualification

Rights of teachers

**72.** Every teacher shall –

(a) be treated in a fair and reasonable manne

(b) be provided, as far as possible, with a adequate working environment;

(c) be provided, as far as possible, wit sufficient and appropriate equipment an facilities to perform his or her duties;

(d) be protected, as far as possible, fro molestation, abuse, assault and batter while performing his or her duties within o outside the school premises;

(e) be afforded, where necessary, legal an psychological support in the event of injur suffered in the performance of duties;

(f) be provided with reasonable access t professional training and development;

(g) be provided with adequate protectiv clothing, tools and equipment while bein engaged in hazardous activities.

Performance of professional duties

**73.** A teacher shall perform his or her professiona duties in accordance with regulations made under this Act and th directions of the headteacher or the director of the educationa institution as the case may be.

**Responsibilities of teachers, lecturers and instructors**

**74.**(1) A teacher, lecturer or instructor in a State school or educational institution shall –

(a) encourage students in the pursuit of knowledge and teach them diligently and faithfully;

(b) teach courses of study that are approved or authorised under this Act;

(c) under the direction of the head of the school or institution maintain order and discipline among students while they are within the premises of the school or institution or attending or participating in duly approved activities outside such premises;

(d) review with students their assessment and progress and advise them of the performance expected of them;

(e) participate in the national assessments of students as and when required by the Ministry;

(f) maintain the registers, records and other documents required by or under this Act and make them available for inspection by the Principal Secretary or any authorised person;

(g) perform any other duties as and when reasonably required by the head of the institution.

(2) A teacher or lecturer or instructor who fails to perform any duties under subsection (1) is liable to disciplinary action.

Senior management of schools etc.

**75.**(1) The senior management staff of a school or educational institution consists of headteacher, deputy headteacher, assistant director, head of programmes, head of faculty, head of subject, studies coordinator and such other officer as may be prescribed.

(2) A person holding a post referred to in subsection (1) shall, in addition to carrying out duties of teacher or lecturer or instructor, shall also carry out such other duties assigned to the post as may be prescribed.

(3) A person referred to in subsection (1) who fails to comply with the provisions of subsection (2) is liable to disciplinary action.

Responsibilities of heads of educational institutions

**76.**(1) Every headteacher and director of an educational institution shall –

(a) ensure the observance of this Act and regulations made thereunder;

(b) maintain order and discipline in the precincts of the school or institution and during activities sponsored or approved for the school or institution;

(c) supervise and direct teachers, lecturers, instructors and staff and volunteers who are present;

(d) maintain records and furnish returns as required by or under this Act;

(e) initiate action for the proper maintenance and care of the property of the school or institution;

(f) request material, equipment and supplies that are necessary and arrange for their distribution;

(g) deploy and manage members of the teaching and non-teaching staff of the school or institution and allocate duties to them;

(h) organise and implement the prescribed curriculum having regard to the -

(i) needs, experience, interests, aptitude and stages of development of the students;

(ii) the resources available to the school or institution;

(i) evaluate the standards of teaching and learning in the school or institution and ensure that proper standards of professional performance are established and maintained;

(j) perform such other functions as may be prescribed.

(2) A headteacher or director of an educational institution who fails to perform any duty specified in subsection (1) is liable to disciplinary action.

## Part 6 – Curriculum and assessments

National curriculum

**77.**(1) The Minister shall establish a national curriculum for State schools.

(2) A curriculum established under subsection (1) shall -

(a) be balanced, broadly based and consistent with the goals and objectives specified in section 3;

(b) promote the moral, cultural, intellectual, social and physical development of students;

(c) prepare students for the opportunities, responsibilities and challenges of adult life.

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

National curriculum advsory committee

**78.** The Minister may constitute a national curriculum advisory committee for the purposes of section 77.

Assessment

**79.** Assessments shall be conducted in accordance with regulations at the end of each key stage of primary and secondary schooling to evaluate the performance of students in relation to the targets of the national curriculum.

Religious education in State schools

**80.**(1) It shall not be a condition of admission or attendance of any student in a State school that the student participates in religious education or attends or abstains from attending any place of religious instruction or worship.

(2) Where the parent of any student attending a State 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 institution or elsewhere, then, unless the request is withdrawn, the student shall be so excused.

Inspection of educational institutions

**81.**(1) The Principal Secretary or an officer authorised by the Principal Secretary shall, at such times and in such manner as may be prescribed, inspect State and private schools and educational institutions.

(2) An officer who, pursuant to subsection (1), inspects a school or educational institution shall submit to the Principal Secretary a report on the inspection.

Institutions to be open for inspection

**82.** The headteacher of a school or director of an educational institution shall keep the school or the institution open at all times to visits and inspections by the Minister, the Principal Secretary or any authorised officer.

## Part 7 - Miscellaneous

Offences of destruction etc.

**83.** A person who -

(a) prevents a person empowered or authorised under this Act from visiting or inspecting a school or an educational institution; or

(b) assaults or obstructs a person empowered or authorised under this Act to visit or inspect a school or educational institution during a visit or inspection,

commits an offence and is liable on conviction to a fine not exceeding R50,000 or to a term of imprisonment not exceeding 2 years.

Vendors on school premises

**84.**(1) No person shall sell or offer for sale any food, beverage or other thing in the precincts of a school or education institution during working hours except under and in accordance with the written permission of the Principal Secretary.

(2) The Principal Secretary may revoke such permission if any condition of such permission is breached.

(3) A person who acts in contravention of subsection (1) commits an offence and is liable on conviction to a fine not exceeding R20,000 or to imprisonment for a term not exceeding 2 years.

Prohibition of sale of alcoholic beverages, tobacco

**85.** Any person who sells, offers or exposes for sale any alcoholic beverage or tobacco on the premises of any school or educational institution, whether State or private, commits an offence and is liable on conviction to a fine not exceeding R20,000 or to imprisonment for a term not exceeding 2 years.

Loitering on premises of educational institution

**86.**(1) Any person who -

(a) is found loitering on the premises of any school or educational institution;

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

(c) while on the premises of any school or educational institution --

(i) uses threatening or insulting language or in any manner interferes with any student or member of the staff of such school or institution;

(ii) assaults, insults or abuses such teacher, student or member of staff; or

(iii) disrupts any authorised activity conducted on the premises of the school or educational institution;

(d) in a public place causes or makes a noise that disturbs or is likely to disturb any authorised activity conducted on the premises of the school or educational institution; or

(e) commits any damage to any building or other property on the premises of the school or educational institution,

commits an offence and is liable on conviction to a fine of an amount not exceeding R20,000 or to imprisonment for a term not exceeding 2 years.

(2) A person who commits an offence under subsection (1) may be arrested by any member of the staff of the school or educational institution or a Police Officer without a warrant.

Regulations

**87.**(1) The Minister may make regulations for carrying into effect the principles and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations providing for -

(a) the management and conduct of State schools or educational institutions;

(b) the control, registration, management and conduct of private educational institutions and in respect of -

(i) the size of the classrooms and their equipment, the number of students to be accommodated in each classroom and sanitary facilities to be provided;

(ii) the registers and other records to be kept by the proprietors and the particulars to be furnished to the Ministry by proprietors;

(iii) the conditions of the premises;

(iv) the curriculum, the courses and methods of instruction;

(c) the standards of the premises of schools and educational institutions;

(d) the purposes for which the premises of State schools and educational institutions may be used;

(e) the admission of students to State schools or educational institutions, the discipline of such students, the record to be kept by State schools or educational institutions in respect of each student, the particulars to be included in the record and the disposal of the record;

(f) the admission of persons to post-secondary or tertiary stages and the conditions of admission;

(g) the transfer of students from or to State secondary schools;

(h) the management and accounting by headteachers and teachers of State schools or educational institutions of -

(i) moneys or property payable to or vested in the school or institution;

(ii) moneys derived from fund-raising activities;

(iii) moneys and other property received by way of gifts or donations or in any other manner;

(i) the conditions of admission of students or termination of studentship at post-secondary institutions;

(j) the certification and registration of teachers who complete courses of training;

(k) the terms of employment of teachers including their grading, promotion and leave and payment of their emoluments;

(l) the implementation of any collective agreement concerning the conditions of service of teachers;

(m) the establishment, administration, organisation, inspection, classification and discontinuance of schools including pre-

primary schools and schools for children with special needs;

(n) the award of bursaries, grants and financial assistance in respect of post-secondary and tertiary education;

(o) the academic year, hours of school, and vacations of State schools;

(p) the cases in which and the matters for which fees may be charged in State schools;

(q) the inspection of State schools and private educational institutions;

(r) the establishment of a Teachers' Council that will maintain a register of all teachers and assist in the professional development of teachers;

(s) the constitution, powers and responsibilities of the National Students' Council and its affiliated associations.

Repeal

88.(1) The Education Act, 1982 is repealed.

(2) Notwithstanding the repeal of the Education Act, 1982 any subordinate legislation made under that Act and in force immediately before the coming into operation of this Act shall continue in force to the extent to which such subordinate legislation is not inconsistent with the provisions of this Act until such subordinate legislation is amended by regulations made under this Act.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 14th December, 2004.

Sheila Banks
Clerk to the National Assembly