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EDUCATION ACT 1996

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WHEREAS it is expedient to make new provisions in respect of education:

[Words of enactment omitted]

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PART I PRELIMINARY

Citation and commencement

1 (1) This Act may be cited as the Education Act 1996 and shall come into operation on such day as the Minister may by notice published in the Gazette appoint; and the Minister may appoint different days for the coming into operation of different provisions of this Act.

(2) A notice referred to in subsection (1) may be varied or revoked by a subsequent notice under that subsection.

Interpretation

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

"aided school" means a school the whole or part of the property of which is vested in a body of trustees, board of governors or similar body of persons, or any person, on behalf of the school, and which is wholly or partly maintained out of public funds or which, subject to section 17, has, since 1 September 1965, received any capital grant-in-aid out of public funds;

"Appeals Committee" means the body of persons selected to constitute the Appeals Committee under section 57;

"appointed day" means the date that this Act, or any provision thereof, comes into operation;

"the Board" means the Board of Education appointed under section 3;

"board of governors"—

(a) in the case of an aided school or a private school means the board of governors appointed by that school; and

(b) in the case of a maintained school means the board of governors appointed under section 18;

"Chief Education Officer" means the Chief Education Officer appointed to the Department;

"child" includes a person whose age is above the upper limit of the compulsory school age but is below the age of twenty-one years and who is attending school;

"compulsory school age" has the meaning given in section 40;

"the Department" means the Department of Education referred to in section 5;

"maintained" means maintained wholly out of public funds placed at the disposal of the Minister;

"maintained school" means—

(a) the Prospect Senior School; and

(b) any other school the whole of the property of which belongs to the Government;

"manager" in relation to any school means the person, the board of governors, the body of trustees or other body of persons for the time being responsible for the management of the school, and for the purposes of Part III includes any board of governors, person or other body of persons proposing to be so responsible;

"middle school education" means education which is suitable to the requirements of a child who has attained the age of eleven years, or such lower age as the Minister considers appropriate in respect of a particular child, but who has not attained the age of fifteen years;

"the Minister" means the Minister for the time being responsible for education and related matters;

"parent", in relation to any child, includes a guardian and any person who has the actual custody of the child;

"Permanent Secretary" means the Permanent Secretary for Education and related matters;

"preschool education" means education suitable to the requirements of a child who has attained the age of three years but who has not attained the age of five years;

"prescribed" means prescribed by rules made by the Minister;

"primary school education" means education suitable to the requirements of a child who has attained the age of five years but who has not attained the age of twelve years;

"private school" means a school which is in no way maintained out of public funds and which, subject to section 17, has not, since 1 September 1965, received any capital grant-in-aid out of public funds;

"property" means land held under any form of tenure and includes buildings and other fixtures thereon;

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"recognized school" means a school which for the time being is registered or provisionally registered in the register of schools kept in pursuance of Part III;

"the repealed Act" means the Education Act 1954;

"rules" means rules made by the Minister;

"school" means an institution for providing preschool, primary school, middle school or senior school, education for not fewer than five persons;

"senior school education" means education suitable to the requirements of a child who has attained the age of fifteen years but who has not attained the age of twenty-one years;

"zone" means one of the zones into which Bermuda is divided by the Minister under section 54.

(2) Property acquired by an aided school with the assistance of a grant-in-aid out of public funds shall not be deemed to belong to the Government.

PART II ADMINISTRATION OF THE ACT

Appointment, etc. of Board of Education

3 (1) Subject to subsection (10), the Minister shall, by notice published in the Gazette, appoint annually a Board to be called the Board of Education which shall consist of such number of persons being not less than five nor more than eleven as the Minister may decide.

(2) Any person appointed to be a member of the Board shall hold office during the Minister's pleasure and unless his appointment is earlier terminated it shall be deemed to terminate one year from the date upon which such appointment took effect.

(3) There shall be a Chairman and a Deputy Chairman of the Board, each of whom shall be appointed by the Minister from among the members of the Board and each of whom shall hold office (as such) during the Minister's pleasure.

(4) The Board shall be deemed to be properly constituted notwithstanding that there is a vacancy in the office of Chairman or Deputy Chairman or any member.

(5) At any meeting of the Board the Minister may preside over the meeting and thereupon he shall be treated for all purposes as though he were the Chairman of the Board at that meeting.

(6) Unless the Minister decides to preside pursuant to subsection (5) the meeting shall be presided over by—

(a) the Chairman; or

(b) in the absence of the Chairman, the Deputy Chairman;
or

(c) in the absence of both the Chairman and the Deputy Chairman, such member of the Board as the members present elect to act as Chairman at that meeting.

(7) Subject to subsection (8), every question or matter to be determined by the Board at any meeting shall be decided by a majority of the votes of the members present and voting on the question or matter.

(8) In the event of an equal division of votes the person presiding at the meeting may, if he thinks fit, give a second or casting vote.

(9) Fees shall be paid to members of the Board in accordance with the Government Authorities (Fees) Act 1971.

(10) The members of the Board appointed under the repealed Act who were holding office immediately before the appointed day shall, on the appointed day, be deemed to have been appointed under this Act and, subject to subsection (2), shall remain in office for the unexpired portion of the year ending on the date when the appointment would, but for this subsection, be deemed to terminate.

Consultation with, and functions and duties of, the Board

4 (1) In the exercise of his powers and the performance of his duties in relation to matters of education and related matters, the Minister may consult or take the advice of the Board on any matter so, however, that notwithstanding such consultation or such advice on any matter the Minister may act in his discretion on that matter.

(2) The Board shall have such other functions and duties as may be assigned to it by this Act or any other enactment.

Continuance of the Department of Education, etc.

5 (1) The Department of Education established under section 5 of the repealed Act shall continue under this Act and shall continue to assist the Minister in the discharge of his powers and duties under this Act and any other enactment.

(2) The Department shall, subject to the general direction and control of the Minister, continue—

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- (a) to be under the supervision of a public officer who shall be known as the Permanent Secretary; and
- (b) to consist of the Chief Education Officer and such other public officers as may from time to time be authorized by the legislature.

(3) Where, pursuant to section 83(1) of the Bermuda Constitution Order 1968 the Governor, for the purposes of maintained schools, has delegated to the Permanent Secretary the power to make appointments to public offices, the Permanent Secretary may, prior to making any such appointment, consult with the board of governors of the school in respect of which such appointment is to be made.

General provision as to functions of the Minister

6 The Minister shall, so far as his powers and resources extend, contribute towards the moral, intellectual and physical development of the people of Bermuda by securing or helping to secure that efficient educational facilities and school recreational facilities are made available to meet the needs, from time to time, of persons in Bermuda.

Control by the Minister of aided schools, etc.

7 Without prejudice to the generality of sections 1 to 6 the Minister shall exercise control and supervision over the organization and activities of aided and maintained schools, and exercise the powers conferred upon him under sections 60, 61 and 62 in respect of private schools.

Power of the Minister to make rules

8 (1) The Minister may make rules for administering this Act and for giving effect to its purposes.

(2) Without prejudice to the generality of the power conferred on him by subsection (1), the Minister may make rules—

- (a) regulating the procedure to be observed at meetings of the Board or any committee of the Board;
- (b) providing for the authentication, and the safe custody, of the seal of the Prospect Senior School;
- (c) prescribing the forms to be used for any of the purposes of this Act;
- (d) with respect to the exercise by the Minister of control and supervision over aided and maintained schools;
- (e) prescribing conditions subject to which grants out of public funds are made to aided and maintained schools;

- (f) with respect to any matter or thing which by or under this Act is to be or may be prescribed; and
 - (g) with respect to any matter incidental to or supplementary to any of the matters specified in paragraphs (a) to (f).
- (3) The negative resolution procedure shall apply to rules made under this section.

PART III REGISTRATION OF SCHOOLS

Non-application to private preschool

9 This Part does not apply to a private school which provides preschool education.

Construction of "fit for registration"

10 (1) Where in this Part "fit for registration" is used in relation to a school, it means—

- (a) that the conditions obtaining at the school are not such as to endanger the health, morals or safety of the pupils attending at the school; and
- (b) that, having regard to the circumstances for the time being prevailing with respect to the provision of schools and educational facilities in Bermuda, there is in the case of that school a reasonable degree of compliance with the following requirements, that is to say—
 - (i) that the premises of the school are suitable and safe for a school;
 - (ii) that the accommodation provided on the premises of the school is adequate and suitable having regard to the number, ages and sex of the children attending at the school; and
 - (iii) that efficient and suitable instruction is being provided at the school having regard to the ages, sex and abilities of the children attending at the school.

Registration of schools maintained wholly out of public funds

11 The Minister shall register in the register of schools required by this Part every maintained school and on being so registered every such

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maintained school shall be a recognized school within the meaning of this Act.

Registration of schools generally, etc.

12 (1) For the purposes of this Part the Minister shall keep a register of schools in which, subject to this section, shall be registered every school in Bermuda, whether established before or after the appointed day, being a school—

- (a) the manager of which makes application to the Minister for the purpose in the prescribed manner and furnishes the prescribed particulars; and
- (b) which appears to the Minister to be fit for registration.

(2) If with respect to any school established prior to the appointed day it appears to the Minister that he is in possession of sufficient information to satisfy him that the school is fit for registration, the Minister may, by notice to the manager of the school, dispense with an application for registration and may proceed to register the school.

(3) In the case of an application for the registration of a school which it is proposed to establish, the Minister, if it appears to him likely that the school (if established) will be a school fit for registration, may register the proposed school, but the registration shall be only provisional until confirmed by the Minister and, without prejudice to the powers conferred on the Minister by section 14, shall, unless sooner confirmed, cease to be valid on a date six months after the date of the

registration or on such later date as the Minister, in particular cases, may appoint.

(4) The Minister may make rules prescribing the particulars to be furnished by the managers of schools in connection with applications for registration; and such rules may provide for notification to the Minister of any changes in the particulars so furnished.

(5) Where a school is registered pursuant to this section the Minister shall forthwith issue to the manager of that school a certificate of registration.

(6) The manager of a school shall cause the certificate of registration to be prominently displayed at some place on the school premises.

(7) A school which was registered under the repealed Act shall, on the coming into operation of this Act, be deemed to be registered under this Act, and subsection (5) shall have effect accordingly.

Penalty for conducting an unregistered school

13 If any person conducts a school which is not a registered school or a provisionally registered school he commits an offence against this Act and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$5,000 or, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000.

Procedure where a provisionally registered or registered school is or becomes unfit for registration

14 (1) If at any time the Minister, after due enquiry and consideration, comes to the conclusion that a provisionally registered school or a registered school is not or is no longer fit for registration, then the Minister—

(a) in the case of a provisionally registered school may, if he thinks fit, serve upon the manager of the school a notice in the terms specified in subsection (2); and

(b) in the case of a registered school shall serve such a notice upon the manager of the school.

(2) A notice served by the Minister under subsection (1) shall state with particulars the matters (hereinafter referred to as "the matters complained of") comprised in the grounds on which the Minister has come to his conclusion; and, unless any of the matters complained of is in the opinion of the Minister irremediable, the notice shall specify the measures which, in the opinion of the Minister, are necessary to remedy such matters and shall specify the time within which such remedial measures are required to be taken.

(3) Subject to subsections (4) and (5), the time to be specified for the taking of remedial measures referred to in subsection (2) shall be not less than six months.

(4) Notwithstanding subsection (3), where in the opinion of the Minister any of the matters complained of is such as to endanger the health, morals or safety of the pupils attending at the school the Minister may require remedial measures to be taken forthwith or within such time (being less than six months) as the Minister may direct.

(5) Where any of the matters complained of is, in the opinion of the Minister, irremediable, or where any remedial measure specified by the Minister is not taken within the time specified by the Minister the Minister may strike the school off the register of schools, and thereupon the school shall cease to be a registered school or, as the case may be, a provisionally registered school.

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(6) Where, pursuant to subsection (5), the Minister strikes a registered school off the register of schools, the certificate of registration issued under section 12(5) shall be deemed to be cancelled with effect from the date of such striking off.

(7) For the avoidance of doubt it is hereby declared that the manager of a school shall not be guilty of an offence under section 13 unless he continues to conduct that school after the Minister, by notice, has notified him that the school has been struck off the register of schools.

Meaning of "recognised school"

15 A school which for the time being is registered or provisionally registered is in this Act referred to as a "recognized school".

Limitation on operation of schools

16 No school other than an aided school, a maintained school or a private school may be operated in Bermuda or be registered or remain registered.

Transition from aided to private school

17 (1) Where an aided school would, but for the receipt of a capital grant-in-aid out of public funds since 1 September 1965, be a private school, the Minister may enter into an arrangement with the manager for the repayment of the whole or part of such capital grant-in-aid on such terms as may be agreed by the parties to the arrangement.

(2) Any such arrangement shall be in writing and shall be signed by the parties thereto and shall be enforceable as a contract.

(3) On the signing of any such arrangement, or as soon thereafter as the aided school concerned ceases to be maintained wholly or partly out of public funds, that aided school shall become a private school.

PART IV AIDED AND MAINTAINED SCHOOLS

A BOARD OF GOVERNORS

Appointment of board of governors of maintained schools

18 (1) There shall be a board of governors of every maintained school.

(2) The provisions of the Schedule shall have effect with respect to the constitution of a board of governors and otherwise in relation thereto.

General functions of board of governors

19 (1) The functions of a board of governors of a maintained school are—

- (a) to advise the Minister on policy matters in respect of the school;
- (b) to manage and administer the financial affairs of the school;
- (c) notwithstanding section 5(1)(a)(i) and (ii) of the Department of Works and Engineering Act 1984 (charge and management of public lands), to manage and administer the maintenance of the school premises;
- (d) to consider and make recommendations in respect of the appointment of all teachers, including the principal, at the school;
- (e) subject to subsection (2), to employ, on such terms and conditions as it considers appropriate, such staff, other than public officers, as it considers necessary for the purpose of discharging its function under paragraph (c);and
- (f) such other functions as the Minister may from time to time determine.

(2) Where—

- (a) a board of governors proposes to employ any person; and
- (b) that person is a member of a trade union; and
- (c) there is, in respect of a class of persons of which that person is a member, a collective agreement between the Government and that trade union,

the terms and conditions of that collective agreement shall have effect in relation to that person.

(3) In this section "trade union" and "collective agreement" have the meaning respectively assigned to each of those expressions by section 1 of the Trade Union Act 1965.

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Board of governors to submit estimates

20 (1) The board of governors of every aided or maintained school shall, not later than 31 August in each year, submit to the Minister in such form as the Minister may determine, estimates of the income and expenditure of the school under its control for the ensuing year.

(2) Estimates submitted under subsection (1) shall include—

- (a) salary and allowances, if any, to be paid to each member of the staff, including non-teaching members; and
- (b) expenditure in respect of maintenance, upkeep and other operating expenses in respect of the school premises.

Audit of accounts

21 The board of governors of every aided or maintained school shall, not later than 30 June in each year, or such later period as the Minister may allow, cause its accounts for the preceding year to be audited in such manner as the Minister may determine.

B EDUCATION

Minister may direct form of education in aided or maintained school

22 Without prejudice to section 23, an aided or maintained school shall not provide preschool, primary school, middle school or senior school, education, except as the Minister may direct.

The curriculum

23 (1) The curriculum of every aided and maintained school shall include such of the following subjects as the Minister considers appropriate, that is to say, business studies, design and technology, family studies, fine arts, foreign languages, information technology, language arts, mathematics, performing arts, physical and health education, science and social studies.

(2) The curriculum shall specify in relation to each subject—

- (a) the matters, skills and processes which are required to be taught to pupils of different abilities and maturities during each level of schooling (to be known as "programmes of study");
- (b) the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have during each level of schooling (to be known as "outcomes"); and

- (c) the arrangements for assessing pupils during each level of schooling for the purpose of ascertaining what the pupils have achieved in relation to the outcome targets of that level (to be known as "assessment arrangements").

Levels of schooling

24 The levels of schooling in relation to a pupil are as follows—

- (a) in the case of primary school education, the period beginning with his becoming of compulsory school age and ending at the same time as the school year in which the majority of pupils in his class attain the age of eleven years;
- (b) in the case of middle school education, the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of twelve years and ending at the same time as the school year in which the majority of pupils in his class attain the age of fourteen; and
- (c) in the case of senior school education, the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of fifteen years and ending at the same time as the school year in which the majority of pupils in his class attain the age of eighteen years.

Duty to establish curriculum, etc.

25 (1) It shall be the duty of the Minister so to exercise the powers conferred by subsection (2) of this section as—

- (a) to establish a complete curriculum as soon as is reasonably practicable; and
- (b) to revise that curriculum whenever he considers it necessary or expedient to do so.

(2) The Minister may by order specify in relation to each of the subjects—

- (a) such programmes of study;
- (b) such outcomes; and
- (c) such assessment arrangements;

as he considers appropriate for that subject.

C CONTROL

Control of aided or maintained schools

26 (1) The control and supervision which the Minister may exercise over an aided or maintained school shall include control and supervision over such matters as—

- (a) the secular instruction to be given to the pupils attending at the school;
- (b) subject to subsection (2), the appointment and dismissal of principals and teachers;
- (c) the number of teachers and their qualifications;
- (d) the duties of teachers, including methods of teaching;
- (e) subject to subsection (3) and section 67(8), the expulsion of any pupil attending at an aided or maintained school;
- (f) the time at which the school session shall begin and end on any day;
- (g) the time at which the school terms shall begin and end and the determination of school holidays;
- (h) the general organization and conduct of the school;
- (i) the procedure for the allocation of places for enrolment in schools providing preschool, primary school, middle school and senior school, education; and
- (j) the type of education to be provided at the school.

(2) Notwithstanding subsection (1)(b), where a principal or a teacher is a public officer that paragraph shall not apply in relation to that principal or teacher.

(3) Where a child of compulsory school age is expelled from an aided or maintained school the Minister shall take such steps as in all the circumstances of the case he considers appropriate to ensure the continuance of the child's education.

Method and degree of control, etc.

27 The method and degree of the control and supervision exercised by the Minister over aided and maintained schools and details of such control and supervision may be prescribed by rules.

Collective worship

28 (1) Subject to the following provisions, the school day in an aided or maintained school shall begin with collective worship on the part of all pupils in attendance at the school.

(2) The arrangements made for collective worship shall provide for a single act of worship attended by the pupils referred to in subsection (1).

(3) If the parent of any pupil attending at an aided or maintained school requests that the pupil be wholly or partly excused from attendance at collective worship in the school, then, until the request is withdrawn, the pupil shall be excused from such attendance.

(4) Where, pursuant to subsection (3), a pupil has been wholly or partly excused from attendance at collective worship, and the Minister is satisfied—

(a) that the parent of the pupil desires him, during the period which he is excused from such attendance, to worship elsewhere; and

(b) that arrangements have been made for him to worship, during school hours, elsewhere,

then, subject to subsection (5), the pupil may be withdrawn from the school during such periods as are reasonably necessary for the purpose of enabling him to worship elsewhere in accordance with the arrangements.

(5) Notwithstanding subsection (4), a pupil shall not be withdrawn pursuant to that subsection unless the Minister is satisfied that the arrangements are such as will not interfere with the attendance on any day of the pupil at school except at the beginning of the morning school session or at the end of the afternoon school session on that day.

(6) Where in the opinion of the Minister—

(a) the school premises are such as to make it impracticable to assemble the pupils for collective worship, subsections (1) and (2) shall not apply; or

(b) the school premises are such as to make it inconvenient to assemble the pupils for collective worship every school day, there shall be collective worship on such day or days as the Minister may direct, so, however, that there shall be collective worship on at least one school day in every week.

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(7) Collective worship shall not be distinctive of any particular religious group.

D INSPECTION

Inspection of aided and maintained schools

29 The Chief Education Officer shall cause inspections of aided and maintained schools to be carried out as often as in the opinion of the Minister is necessary for the purpose of administering this Act and in particular for the purpose of ensuring that grants made to such schools out of public funds are being properly applied.

Persons authorized to inspect schools

30 The Minister, any member of the Board authorized in that behalf by the Minister, the Permanent Secretary, the Chief Education Officer, or any other officer of the Department authorized in that behalf by the Permanent Secretary or Chief Education Officer, may, at all reasonable hours, visit or inspect any aided or maintained school.

Principal must afford facilities for inspections and visits

31 Where in pursuance of sections 29 or 30 any person inspects or visits an aided or maintained school, the principal of the school shall afford the person inspecting or visiting the school every facility and all information reasonably required by that person in furtherance of the purpose of the inspection or visit.

Power of the Minister to obtain information relating to aided and maintained schools

32 (1) The Minister may require the manager or principal of any aided or maintained school to afford him any information relating to the school required by the Minister for the purpose of administering this Act, and may require any such information to be given in writing either by the entry of particulars in a form supplied by the Minister or otherwise.

(2) If the manager or principal of any aided or maintained school refuses or neglects to comply with any requirement imposed on him by the Minister under subsection (1), he commits an offence against this Act and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$500 or in the case of a second or subsequent offence to a fine not exceeding \$1000.

(3) If any person in giving any information required by the Minister under this section gives any false information which he knows to be false or does not believe to be true, he commits an offence against this Act and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$1000.

E PROSPECT SENIOR SCHOOL

Establishment of Prospect Senior School

33 (1) There is hereby established a maintained school to be known as Prospect Senior School which shall provide senior school education in accordance with the provisions of this Act.

(2) The Prospect Senior School shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.

Vesting of land in the Prospect Senior School

34 Every interest in or right over any land comprising the Prospect Senior School which immediately prior to the coming into operation of this Part was vested in, or enjoyed by the Government or any Government Agency is, by virtue of this section and without further assurance, on the coming into operation of this Part transferred to the Prospect Senior School to be held and enjoyed by that school to the extent and subject to any condition to which it was held by the Government or, as the case may be, by the Government Agency.

Restrictions on disposal of land

35 The Prospect Senior School shall not make a sale or other disposition of any land referred to in section 34 unless the Senate and the House of Assembly have first approved such sale or other disposition.

Special powers of board of governors of Prospect Senior School

36 (1) The board of governors of the Prospect Senior School may, with the prior approval of the Minister, and not otherwise, from time to time and subject to such conditions or restrictions as the Minister considers appropriate, enter into such arrangements for the use of any premises or facilities at the school as the board of governors may determine; and for the purposes of any such arrangement may charge such fee as the Minister considers appropriate.

(2) Any income accruing to the board of governors pursuant to subsection (1) shall be held and applied by the board of governors for the benefit of the Prospect Senior School.

Land tax exemption

37 All property, real or personal, appertaining to the Prospect Senior School shall be exempted from land tax and other taxes of a like nature.

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Change of name

38 The Minister may, by order subject to the negative resolution procedure, change the name of the Prospect Senior School and, upon such order being made—

- (a) paragraph (a) of the definition of "maintained school" in section 2;
- (b) section 8(2)(b); and
- (c) sections 33 to 37,

shall be deemed to be amended by the deletion of the words "Prospect Senior School" wherever they appear and the substitution, in each case, of the name appearing in the order.

PART V COMPULSORY EDUCATION

Attendance officer

39 In this Part "attendance officer" means an attendance officer appointed by the Minister for the purposes of this Part.

Compulsory school age

40 (1) Subject to subsections (2), (3) and (4), a child shall be deemed to be of compulsory school age if he has attained the age of five years and has not attained the age of sixteen years; and accordingly "compulsory school age" in this Act means, subject as aforesaid, any age between the age of five years and the age of sixteen years.

(2) The Minister may by notice published in the Gazette specify the term in any school year in relation to aided or maintained schools when a child who attains the age of five years in that year shall first attend school compulsorily pursuant to this Act and, in that event—

- (a) any child who in that year attains the age of five years before the commencement of the term so specified shall not be deemed to have attained the lower limit of compulsory school age until the date of the commencement of that term; and
- (b) any child who in that year attains the age of five years at any time after the commencement of the term so specified shall be deemed to have attained the lower limit of compulsory school age on the date of the commencement of that term.

(3) Any child who attains the upper limit of compulsory school age during the course of any school year (as may be specified by the

Minister from time to time by notice published in the Gazette) shall be deemed not to have attained the upper limit of compulsory school age until the day following the last day of the last term in that school year unless the Minister upon the application of the parent or guardian of that child otherwise directs in relation to that child.

(4) On the application of the parent or guardian of a child who has attained the age of fifteen years, the Minister may, if satisfied that the further compulsory attendance of that child at a school would not be beneficial to him, direct that as from the date of such direction he shall cease to be of compulsory school age for the purposes of this Act for so long as he remains subject to the supervision of the Chief Education Officer for educational purposes until he attains the upper limit of compulsory school age; and any such direction shall have effect accordingly in relation to that child.

Meaning of "suitable education"

41 In this Part "suitable education", in relation to any child, means education which, having regard to the curriculum and facilities for education for the time being available in Bermuda is, as nearly as may be, suitable to the age, ability, special needs (if any), aptitude and health, of the child.

Parents must secure the education of their children

42 (1) It shall be the duty of the parent of every child of compulsory school age to cause him to receive suitable education either by regular attendance at a recognized school or otherwise.

(2) If any question arises whether a child of compulsory school age is or is not receiving suitable education—

(a) otherwise than by regular attendance at a recognized school; or

(b) at a recognized school,

that question shall be referred to, and determined by, the Minister, and the decision of the Minister shall be final.

(3) In determining any such question as is referred to in subsection (2)(a) the Minister shall have regard to any certificate given by a registered medical practitioner relating to the capacity of the child to undergo, without detriment to his physical or mental health, any particular course or method of instruction.

School attendance orders

43 (1) Subject to subsections (2), (3) and (4), if it appears to an attendance officer that the parent of any child of compulsory school age

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is failing to perform the duty imposed on him by section 42, the attendance officer shall take such steps as appear to him expedient for the purpose of securing the performance of the duty and may, if he considers it necessary for that purpose, serve on the parent an order (hereinafter in this Part referred to as a "school attendance order") requiring the parent to cause the child to be enrolled, within such time (being not less than seven days) as may be specified in the order, as a pupil at a recognized school named in the order.

(2) Notwithstanding subsection (1), where a parent claims that a child is receiving suitable education otherwise than by attendance at a recognized school, that claim shall be referred to the Minister for determination.

(3) A school attendance order shall not be served on a parent referred to in subsection (2) or, if served, shall have no effect unless the Minister, after considering the claim, confirms the order.

(4) Where the Minister confirms an order under subsection (3), the time limited for compliance with the order shall be deemed to run from the time at which the decision of the Minister is, by notice, communicated to the parent.

(5) Before serving a school attendance order the attendance officer shall, where practicable afford the parent an opportunity to select the school to be named in the order, so, however that subsection (6) shall apply in respect of such selection.

(6) Where pursuant to subsection (5), a parent selects a school—

- (a) being a school in the zone in which the child resides, in the case of primary school education;
- (b) being a middle school specified by the Minister pursuant to section 55, in the case of middle school education; or
- (c) any school, in the case of senior school education,

that school shall be named in the order unless the Minister, having regard to this Act, otherwise directs.

(7) If any person upon whom a school attendance order is served fails without reasonable excuse (the proof of which shall be upon him) to comply with the requirements of the order he commits an offence against this Act.

(8) Subject to subsection (9), the Minister may revoke, amend or vary a school attendance order if having regard to any change in circumstances it appears to him to be expedient to do so.

(9) The revocation of a school attendance order under subsection (8) shall be without prejudice to the taking of further action under this section if at any time the circumstances so require.

(10) Subject to subsections (8) and (9), a school attendance order made in respect of any child shall continue in force so long as the child is of compulsory school age.

Parents must secure regular attendance of children at school

44 (1) If any child of compulsory school age who is enrolled as a pupil at a recognized school fails to attend regularly at the school, the parent of the child commits an offence against this Act.

(2) In any proceedings for an offence under this section the child in respect of whom the proceedings are taken shall not be deemed to have failed to attend regularly at the school by reason of his absence therefrom with leave or—

(a) at any time when he was prevented from attending by reason of sickness or other unavoidable cause; or

(b) on any day exclusively set apart for religious observance by the religious body to which his parent belongs.

(3) In this section "leave" means leave granted by the principal of the school or any teacher authorized by the principal in that behalf.

Proceedings for offences under section 43 or 44

45 (1) Subject to subsection (2), a person who commits an offence under section 43 or 44 is liable on conviction by a court of summary jurisdiction—

(a) in the case of a first offence, to a fine not exceeding \$50;

(b) in the case of a second offence, to a fine not exceeding \$200; or

(c) in the case of a third or subsequent offence, to a fine not exceeding \$500.

(2) The Minister shall institute proceedings for offences referred to in section 43 or 44 wherever, in his opinion, the institution of such proceedings is necessary for the purpose of enforcing the duty imposed upon a parent by this Part to cause his child to receive suitable education.

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Persistent truants

46 (1) Where in any proceedings for an offence under section 44 it appears to a court that the child in respect of whom the proceedings are brought—

- (a) is a persistent truant; and
- (b) is beyond the control of his parent,

then, whether the parent is convicted or not, the court may direct that the child be brought before a Children's Court, and may remand the child on bail or in custody in an approved society operating a home for children under the control of the Minister for the time being responsible for Health and Social Services until he can be brought before a Children's Court.

(2) Where a child is brought before a Children's Court in pursuance of subsection (1), then if it is proved to the satisfaction of the Children's Court that the child is a persistent truant and is beyond the control of his parent, the child shall be deemed to be in need of care and protection or control and the Children's Court may deal with the child in accordance with section 8 of the Protection of Children Act 1943.

(3) In this section—

- (a) "persistent truant" means a child who, having been enrolled as a pupil in a school, frequently and wilfully fails to attend at that school;
- (b) "Children's Court" means a Special Court exercising jurisdiction under the Protection of Children Act 1943; and
- (c) "child" means a person under the age of seventeen years.

Powers of attendance officers to enter premises, obtain information, etc.

47 (1) For the purpose of enabling him to discharge his duties under this Part an attendance officer—

- (a) on producing (if so required) some duly authenticated document showing his authority, may enter any premises on any day between the hours of 8:00 a.m. and 6:00 p.m.;
- (b) may require the parent of any child to give him information relating to the age of the child or the attendance of the child at school and any other information which is in the possession of, or available to,

the parent and which is relevant to the purposes of this Part; and

- (c) may require the principal of any school to give him information relating to the enrolment of any child as a pupil at the school or the attendance at the school of any child enrolled as a pupil at the school and any other information which is in the possession of, or available to, the principal and which is relevant to the purposes of this Part.

(2) Subject to subsection (3), an attendance officer may require any information given pursuant to subsection (1) to be given in writing, either by the entry of particulars in a form supplied by the attendance officer or otherwise.

(3) Where any information is required to be given in writing the time within which it is required to be given shall not be less than three days.

Penalty for obstructing an attendance officer, etc.

48 (1) A person who—

- (a) wilfully obstructs or hampers an attendance officer acting in the execution of his duties under this Part; or
(b) refuses or neglects to comply with any requirement as to the giving of information imposed on him under section 47,

commits an offence and is liable on conviction by a court of summary jurisdiction—

- (aa) in the case of a first offence, to a fine not exceeding \$400; or
(bb) in the case of a second or subsequent offence, to a fine not exceeding \$1000.

(2) A person who, on being required under section 47 to give information, gives any false information which he knows to be false or does not believe to be true, commits an offence against this Act and is liable, on conviction by a court of summary jurisdiction to a fine not exceeding \$500.

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Special provision relating to regular attendance of children not of compulsory school age who are enrolled at aided or maintained schools

49 Where a child, being a child whose age is under the lower limit or above the upper limit of compulsory school age, is enrolled as a pupil at an aided or maintained school, then, until the child is withdrawn from the school, section 43 shall apply in relation to the child as if the child were of compulsory school age, and the other provisions of this Part shall have effect accordingly in relation to the child.

PART VI FREE EDUCATION

Interpretation of Part VI

50 (1) In this Part—

- (a) "free education" in relation to any child, means education for which no fee for the tuition of the child is payable by or on behalf of the child or for which the fees for the tuition of the child are payable by the Minister by way of a grant-in-aid; and
- (b) "suitable education" in relation to a school at which a child is to receive free preschool, primary school, middle school or senior school, education means education which, in the opinion of the Minister, is suitable for the child, having regard to the educational needs and aptitude of the child, the distance of the school from the child's home and to the other circumstances of the case.

(2) In this Part, any reference to a child shall be construed as a reference to a child who is resident in Bermuda.

(3) If in connection with the administration of this Part any question arises as to whether instruction of a certain kind is or is not preschool, primary school, middle school or senior school, education, that question shall be decided by the Minister and the decision of the Minister shall be final.

Entitlement to free education

51 (1) Subject to the provisions of this Act, every child who is resident in Bermuda shall have a right to receive free primary school, middle school and senior school, education, suited to his age, ability, special needs (if any), aptitude and health, at an aided or maintained school.

(2) Every child who has attained the age of three years but who has not attained the age of five years shall, subject to the availability of resources, have a right to receive free preschool education if—

- (a) there is, in the parish in which the child resides, an aided or maintained preschool; and
- (b) accommodation is available at that school for the child.

(3) No fee shall be demanded, sought or accepted by any teacher, manager or other person from the parent or any other person in respect of any child entitled to receive free education under this section except in respect of education at a private school.

(4) Any person who demands, seeks or accepts any fee in contravention of subsection (3) commits an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$1000.

(5) A child shall not, without the prior approval of the Minister, be deprived of the right to a senior school education in an aided or a maintained school by reason only of the fact of that child having attained the age of sixteen years, if that child has not attained the age of twenty-one years.

(6) Nothing contained in this Part shall be construed as prohibiting the Minister from requiring the parent of a child—

- (a) to purchase educational material, other than text books; or
- (b) to pay such amount as is necessary to replace any book, including any text book, or other educational material, which a child—
 - (i) has lost; or
 - (ii) has so damaged as to render unuseable,

and the Minister may make rules for giving effect to this subsection.

Implementation of right to free education

52 (1) Subject to the provisions of this section, with respect to the implementation of the right of children to receive free education pursuant to this Act, such right shall be implemented by the provision of free education at all maintained schools and by making suitable arrangements for such education in aided schools.

(2) It shall be deemed to be a sufficient fulfillment of this Part, so far as it confers a right to receive free education, if subsection (1) is

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observed; and (unless malice is expressly alleged) no action or suit shall lie against the Minister or against any officer or servant of the Government in respect of a failure to secure for any child the provision of free education.

(3) In the determination of the sums to be paid by the Minister by way of grant-in-aid to an aided school under this section, the Minister shall have regard to—

- (a) the type of education provided by the school in question; and
- (b) the number of children in that school entitled to receive free preschool, primary school, middle school, or senior school, education, if any.

(4) Nothing contained in this Part shall be construed as to require the provision of free education for a child where, in the special circumstances of a particular case, it would, in the opinion of the Minister, be impracticable or inexpedient so to do.

Principles governing admission to schools

53 (1) The principles governing the admission of a child to an aided or maintained school of choice shall be as follows—

- (a) children shall be admitted according to admission procedures published by the Ministry;
- (b) no such admission procedure shall bar entry on grounds of race, place of origin or religion;
- (c) due regard shall be paid to the maximum enrolment permissible;
- (d) parents of children who fall within the respective age groups for entry to—
 - (i) preschool, shall have the right to apply to the preschool, if any, in the parish in which the child resides; and
 - (ii) primary school, shall have the right to apply to any primary school in the zone in which the child resides;
 - (iii) senior school shall have the right to apply to any senior school in Bermuda; and
- (e) parents whose children are not admitted to the school of their choice shall have the right to appeal to the Appeals

Committee by whose decision the manager of the school or other authority concerned shall abide.

(2) Subsection (1) relates only to the principles governing admission and confers no right to free education otherwise than as provided by this Act.

(3) It shall be the duty of the manager of every aided or maintained school to bring to the attention of parents the admission procedures referred to in subsection (1)(a).

Division of Bermuda into zones for purposes of primary schools

54 (1) For the purposes of primary schools, the Minister shall divide Bermuda into such number of zones as he may determine.

(2) The Minister shall cause to be published in the Gazette the demarcation of the zones into which Bermuda is to be divided under subsection (1).

(3) The Minister may, by notice published in the Gazette, vary the demarcation of the zones, so however that any such variation shall not apply in relation to any child enrolled in a primary school at the time of the variation.

Admission to middle schools

55 The Minister may from time to time by notice published in the Gazette specify the middle school to which children who have attended a particular primary school and who have completed primary school education will be admitted for the purpose of middle school education and, subject to section 56(3), children from that primary school (hereinafter referred to as "the feeder school") shall attend the middle school so specified.

Selection of schools by parents, etc.

56 (1) Subject to the provisions of this section, a child who by virtue of section 51 is entitled to receive free education may receive free education—

- (a) in the case of preschool education, subject to section 51(2), at the preschool situated in the parish in which the child resides;
- (b) in the case of primary school education, at any primary school—
 - (i) selected by the child's parent;
 - (ii) situated in the zone in which the child resides; and

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- (iii) if accommodation is available at that school for the child;
 - (c) in the case of middle school education, at the middle school specified by the Minister under section 55 as the middle school in relation to which the primary school attended by the child is the feeder school; and
 - (d) in the case of senior school education, at the senior school selected by the child's parent if—
 - (i) accommodation is available at that school for the child; and
 - (ii) the school is equipped to meet the educational requirements of the child.
- (2) Where the Minister is satisfied, after consultation with the principal of a primary school selected by a child's parent and after giving due weight to any representation made by the parent—
- (a) that for the reason that there is insufficient accommodation available at that primary school, or for the reason that that primary school is not suitable for the child, it is expedient that the child should not attend at, or continue to attend at, that primary school; and
 - (b) where the child is of compulsory school age, that there is accommodation for the child at some other aided or maintained primary school which is suitable for the child,

the Minister may by order in writing direct the parent that the child shall not attend at, or continue to attend at, the first mentioned aided or maintained primary school but shall attend at the second mentioned aided or maintained primary school.

(3) Subject to subsection (4), the Minister may, in writing, direct that a child who is of compulsory school age shall not attend at, or continue to attend at an aided or maintained middle school determined by the Minister under section 55, but shall attend at another aided or maintained middle school specified in such direction.

(4) For the purposes of subsection (3) the Minister may make rules prescribing the circumstances and otherwise in relation to a child attending at a middle school other than the middle school specified by the Minister under section 55.

(5) Where the Minister is satisfied, after consultation with the principal of an aided or maintained senior school selected by a child's

parent and after giving due weight to any representation made by the parent—

- (a) that for the reason that that senior school is not equipped to meet the educational requirements of the child; and
- (b) where the child is of compulsory school age, that there is accommodation for the child at another aided or maintained senior school which is equipped to meet the educational requirements of the child,

the Minister may by order in writing direct that the child shall not attend at, or continue to attend at, the first mentioned aided or maintained senior school, but shall attend at the second mentioned aided or maintained senior school.

(6) Where a direction is given by the Minister that a child shall not attend at, or continue to attend at, a particular aided or maintained school then, attendance by the child at that school shall, where the child is of compulsory school age, be deemed, for the purposes of Part V not to be attendance at a recognized school.

(7) Where a child is receiving free education at an aided or maintained—

- (a) preschool, and he ceases to reside in the parish in which that school is situated;
- (b) primary school, and he ceases to reside in the zone in which the school is situated; or
- (c) middle school, and he ceases to reside in the area in which the middle school is situated,

that child shall not be required to transfer to a school situated in the parish, zone or area, as the case may be, in which he has taken up his new residence unless the Minister is satisfied, in all the circumstances of the case, that such transfer is necessary or expedient.

PART VII **APPEALS**

Constitution of the Appeals Committee

57 (1) Subject to subsection (9), there shall be established a body of persons, to be known as the Appeals Committee, having the powers and duties conferred or imposed upon them under this Act.

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(2) The Governor shall appoint not less than seven persons to form a panel from which the members of the Appeals Committee shall be selected.

(3) The Governor shall appoint a chairman of the Appeals Committee and at any sitting of the Committee the chairman, if present, shall preside.

(4) In the event of the absence of the chairman at any sitting, the Governor may appoint another member from among the panel appointed under subsection (2) to be chairman at that sitting.

(5) The chairman shall select from the panel appointed under subsection (2) two persons, and those two persons together with the chairman shall form the Appeals Committee to determine any appeal made to it.

(6) Subject to this Act, the Appeals Committee shall have power to regulate its own proceedings.

(7) Fees shall be paid to members of the Appeals Committee in accordance with the Government Authorities (Fees) Act 1971.

(8) In the exercise of his powers under this section the Governor shall act on the advice of the Premier.

(9) The appeals panel appointed under the repealed Act for the purposes of the selection of an Appeals Committee shall be deemed to have been appointed under this Act.

Right to appeal

58 (1) Where—

- (a) a child is refused admission to a particular aided or maintained school;
- (b) a child is required to transfer to a school situated in a parish, zone or area, in which he has taken up new residence; or
- (c) a child is expelled pursuant to section 26(1)(e) or section 67(7),

any person aggrieved by the refusal, transfer, or expulsion, as the case may be, shall have the right to appeal to the Appeals Committee.

(2) Pending the decision of the Appeals Committee on any appeal the decision appealed against shall stand.

Procedure on appeal

59 (1) Any person wishing to appeal under section 58 (in this section called "the appellant") shall address to the chairman of the Appeals Committee a notice of appeal in writing setting out all relevant particulars relating to the child and to the school concerned and specifying the decision appealed against and the grounds of such appeal.

(2) The appellant shall serve a copy of the notice of appeal on the respondent who shall have the right to reply thereto.

(3) The Appeals Committee shall fix a date for the hearing of the appeal and on that date may either determine the appeal upon the facts contained in the notice of appeal and in the reply thereto, if any, or they may hear such further evidence as may be required and available.

(4) The appellant and the respondent shall have the right to be heard in person at the hearing of the appeal, or they may appear by their duly appointed representatives.

(5) The Appeals Committee shall communicate its decision in writing to the appellant and to the respondent, and that decision shall be final.

(6) Upon receipt of the notification of the decision of the Appeals Committee in any particular case the respondent shall govern himself accordingly.

(7) In this section "respondent" means—

(a) in the case of a maintained school, the Chief Education Officer; and

(b) in the case of an aided school or private school, the manager.

PART VIII
SUPPLEMENTAL

Power to visit or inspect private schools

60 (1) Subject to subsection (2), for the purpose of administering this Act it shall be lawful for the Minister, any member of the Board authorized in that behalf by the Minister, Permanent Secretary, the Chief Education Officer or any officer of the Department authorized in that behalf by the Chief Education Officer, to visit or inspect, at all reasonable hours, any private school.

(2) Before any such visit or inspection as is referred to in subsection (1), is carried out the Chief Education Officer shall cause

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reasonable notice of the intended visit or inspection to be given to the manager or principal of the school.

(3) Where in pursuance of subsection (1) any person visits or inspects any private school, the principal of the school shall afford that person every reasonable facility in furtherance of the purpose of the visit.

(4) A principal who refuses or neglects to perform the duty imposed on him by subsection (3) commits an offence and is liable on conviction by a court of summary jurisdiction—

(a) in the case of a first offence, to a fine not exceeding \$1000; or

(b) in the case of a second or subsequent offence, to a fine not exceeding \$2000.

Examinations

61 (1) It shall be lawful for the Minister to direct that all or any of the children in private schools shall take any examination that may be required by the Minister and such examination shall be conducted either orally or in writing by an officer of the Department duly authorized by the Minister in that behalf.

(2) Any direction made by the Minister under subsection (1) shall be communicated by a notice in writing to the manager or principal of the school concerned not less than fourteen days before the date on which the examination is to take place, and such notice shall specify the group or groups of children who will be required to take the examination, and the time and the place of the examination.

(3) Upon receipt of the notice mentioned in subsection (2), the manager or principal of the school concerned shall make the necessary arrangements to ensure that the group or groups of children specified in the notice are made available to take the examination at the time and place specified in such notice.

(4) If the manager or principal of any private school wilfully refuses or neglects without reasonable cause to comply with subsection (3), such school shall be deemed to be no longer fit for registration for the purposes of section 14.

Power of the Minister to obtain information relating to private schools

62 (1) The Minister may require the manager or principal of any private school to afford him any information relating to the school required by the Minister for the purpose of administering this Act, and

may require any such information to be given in writing either by the entry of particulars in a form supplied by the Minister or otherwise.

(2) If the manager or principal of any private school refuses or neglects to comply with any requirements imposed on him by the Minister under subsection (1), he commits an offence and is liable on conviction by a court of summary jurisdiction—

(a) in the case of a first offence, to a fine not exceeding \$1000; or

(b) in the case of a second or subsequent offence, to a fine not exceeding \$2000.

(3) If any person in giving any information required by the Minister under this section gives any false information which he knows to be false or does not believe to be true, he commits an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$3000.

Requirement that notices etc. shall be in writing

63 All notices, orders, consents, applications and other documents authorized or required by or under this Act or by or under rules made thereunder to be given, made or issued by the Minister, the Board, or to any officer of the Department, and all notices and applications authorized or required by or under this Act or by or under any such rules to be given or made to, or to any officer of, the Department, shall, except where otherwise expressly provided, be in writing.

Authentication of documents

64 (1) Any notice, order, consent or other document which the Minister is authorized or required by or under this Act, or by or under rules made thereunder, to give, make or issue may be signed on behalf of the Minister—

(a) by the Permanent Secretary; or

(b) by any officer of the Department duly authorized by the Minister to sign documents of the particular kind, or as the case may be, the particular document.

(2) Any document purporting to bear the signature of an officer expressed to hold an office by virtue of which he is under this section empowered to sign such a document, or expressed to be duly authorized by the Minister to sign such a document or the particular document, shall, for the purposes of this Act, and of any rules made thereunder, be deemed, until the contrary is proved, to have been duly given, made or issued by or under the authority of the Minister.

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Service of notices, etc.

65 Any notice, order, consent, application or other document which is required or authorized by or under this Act or by or under rules made thereunder to be given to or served on any person may be given or served—

- (a) by delivering it to that person, or by sending it by post in a prepaid letter addressed to him at his usual or last known place of residence or business;
- (b) in the case of the Minister, by delivering it at the office of the Permanent Secretary or by sending it by post in a prepaid letter to that office.

Institution etc. of prosecutions

66 No proceedings for any offence against this Act shall be instituted or carried on except by or on behalf of the Minister or with the consent of the Attorney-General.

Drug testing

67 (1) Notwithstanding any other provision of law, where the Minister, after consultation with the principal of a school, has reasonable cause to believe that a child attending that school is using any drug, the Minister may, with the prior written consent of the parent of the child, authorize an institution, selected by the parent of the child, or, failing such selection, specified in writing by the Minister, to test the child for such use.

(2) If the results of the test indicate the use of any drug the child shall be deemed to be a drug abuser and the Minister for the time being responsible for Health may, with the prior written consent of the parent of the child, authorize an institution selected by the parent of the child, or, failing such selection, specified in writing by that Minister to treat the child for drug abuse.

(3) Where pursuant to subsection (2) a child is being treated for drug abuse and the Minister, after consultation with the Minister for the time being responsible for Health, considers it appropriate so to do, the Minister may, during the continuance of the treatment, permit the child to continue to attend school.

(4) Where—

- (a) the parent of a child fails, without reasonable excuse, to give consent under subsection (1); or
- (b) the parent having consented, the child refuses to submit to testing or treatment,

the Minister may, subject to subsection (5), suspend the child for such period not exceeding three months as the Minister may, in writing, specify.

(5) Where—

- (a) a child is not permitted to continue to attend school under subsection (3); or
- (b) pursuant to subsection (4), a child is suspended from school,

the Minister shall take such steps as in all the circumstances of the case he considers appropriate to ensure the continuance of the child's education.

(6) Where the Minister suspends a child and before the expiration of the period of suspension specified by the Minister the parent of the child satisfies the Minister that the child is not, or is no longer, as the case may be, using any drug, the child shall be allowed to return to school.

(7) Where a child returns to school after the expiration of a period of suspension or pursuant to subsection (6) and at any time after such return the Minister, after consultation with the principal of the

school, again has reasonable cause to believe that the child is using any drug, then, if—

- (a) in accordance with subsection (1), the child is again tested and the results of the test again indicate such use; or
- (b) the circumstances specified in subsection (4)(a) or (b) in relation to consent again obtain, then,

the Minister may, if satisfied after consultation with the Minister for the time being responsible for Health, the principal of the school, the parent of the child and the person in charge of the institution where the child was treated, if applicable, that it is desirable in the interest of some or all the children attending the school so to do, expel the child.

(8) Nothing contained in subsection (7) shall be construed as prohibiting the Minister from readmitting a child expelled pursuant to that subsection to the same, or admitting a child to any other, school if the Minister in all the circumstances of the case considers it appropriate so to do.

(9) If a child referred to in subsection (7) is not expelled the provisions of subsections (2) and (3) or, as the case may be, subsection

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(4) shall have effect so, however, that nothing contained in this subsection shall be construed as in any way derogating from the Minister's power to expel a child in accordance with the said subsection (7) if at any time the circumstances so require.

(10) For the avoidance of doubt, subject to subsection (11), it is hereby declared that "school" includes a private school, so, however, that in the application of subsections (1) to (9) of this section and sections 69 and 71(1) to private school the word "Minister" shall be construed as if there were substituted for it the word "manager", and subsection (8) of this section shall be construed as if the words ", or admitting a child to any other," were omitted.

(11) Notwithstanding subsection (10), where the manager of a private school satisfies the Minister that—

- (a) the private school has implemented a policy in respect of drugs and drug abusers at that school; and
- (b) that policy has contributed and continues to contribute to the prevention, detection, control and treatment of drug abusers,

then, subject to subsection (12), the Minister may, by Order subject to the negative resolution procedure, exempt that private school from the application of this section.

(12) An Order under subsection (11) shall be subject to such terms and conditions as the Minister considers appropriate and may be amended or revoked at any time..

(13) In this section—

- (a) "drug", "drug abuse" and "drug abuser" have the meaning assigned to each of those expressions respectively in section 2 of the National Drug Commission Act 1993; and
- (b) "institution" means a hospital or other institution in Bermuda or elsewhere which—
 - (a) the Minister, after consultation with the Minister for the time being responsible for Health, is satisfied to be equipped, staffed and competent to carry out tests to determine if a person is using any drug or to treat drug abusers, or both; and
 - (b) is approved by the Minister for the purpose of such tests or treatment, or both.

Costs of testing and treatment

68 (1) Where the Minister is satisfied that a parent is unable to defray the costs of and incidental to any testing or treatment carried out or to be carried out pursuant to section 67 the Minister may grant to that parent such financial assistance as he considers appropriate and such financial assistance shall be provided out of moneys appropriated by the Legislature for the purpose.

(2) The Minister may make Rules subject to the negative resolution procedure for giving effect to subsection (1).

Minister may require returns, etc.

69 The person in charge of an institution at which a child is tested or treated under section 67 shall forward to the Minister such returns, statistics, or other information as the Minister may, by notice in writing, require.

Information confidential

70 (1) No person shall reveal or in any manner communicate to any other person, except for the purposes of sections 58, 67 and 69, any information which may come to his knowledge in respect of a child referred to in those sections.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on conviction by a court of summary jurisdiction to a fine not exceeding one thousand dollars and in default of payment to imprisonment for a term not exceeding six months.

Protection of Minister, etc.

71 (1) No action, suit or proceeding shall be instituted against the Minister in respect of the suspension of a child effected in accordance with section 67(4) or the expulsion of a child effected in accordance with section 67(7).

(2) The Minister may make rules subject to the affirmative resolution procedure for the purpose of giving effect to section 67.

PART IX
MISCELLANEOUS

Grants for adult education

72 (1) The Minister may provide for the payment to any institution of grants in respect of expenditure incurred or to be incurred by that institution in making provisions the purpose of which is to promote and facilitate adult education.

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(2) For the purposes of subsection (1) the Minister may make rules—

- (a) providing for the determination of the amount of such grant; and
- (b) providing for the payment of any such grant to be dependent on the fulfilment of such conditions as may be specified by the Minister.

(3) In this section "adult education" means education suitable to the requirements of a person who has attained the age of twenty-one years.

Transitional and savings

73 (1) The following provisions shall have effect, that is to say,—

- (a) any contract of employment with the Government under the repealed Act and in force immediately before the appointed day shall continue under this Act so, however, that such contract shall terminate on such date as, but for this section, it would have terminated under the repealed Act;
- (b) the Education Rules 1974 and the Education (Applications for Registration of Schools) Rules 1987 made under the repealed Act and in force immediately before the appointed day shall so far as they are not inconsistent with the provisions of this Act, continue in force as if made under this Act until such time as they are replaced by rules made under this Act;
- (c) all schools which, immediately before the appointed day, were recognized schools under the repealed Act, shall continue as such under this Act and the Minister shall issue a certificate of registration in respect of all such schools as soon as it is practicable so to do;
- (d) nothing in this Act abridges or derogates from any Act for the time being in force relating to public health or to the punishment or reformatory treatment of young offenders.

(2) On such day as the Minister may by notice published in the Gazette appoint—

- (a) St. George's Secondary School, Whitney Institute, Warwick Secondary School and Sandys Secondary

School shall cease to be secondary schools and from and after that date shall, respectively, be middle schools;

(b) Dellwood Primary School shall cease to be a primary school and from and after that date shall be a middle school; and

(c) Northlands Secondary School shall cease to be a secondary school and from and after that date shall be a primary school.

(3) The Minister may, by order subject to the negative resolution procedure, change the name of a school referred to in subsection (2) or of any other school.

Repeal

74 The Schools Act 1926 and the Education Act 1954 are repealed.

SCHEDULE (section 18(2))
Board of Governors

Constitution

1 (1) A board of governors of a maintained school shall—

(a) in the case of a senior school, consist of a chairman, a deputy chairman and not less than nine, nor more than thirteen, other members; and

(b) in the case of a middle school or a primary school, consist of a chairman, a deputy chairman and seven other members,

appointed by the Minister by instrument in writing.

(2) In the appointment of the members of a board of governors the Minister shall ensure that—

(a) such interests as he considers appropriate are represented; and

(b) at least one such member is a parent.

(3) The principal of a maintained school shall be an *ex officio* member of the board of governors of that school.

Tenure

2 (1) Subject to paragraphs (2) to (6), the term of office of a member of a board of governors shall be for such period not exceeding three years as may be specified in the instrument of appointment.

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(2) The term of office of a member of a board of governors shall be such as to ensure, so far as possible, the expiration in any year of not more than one half of the terms of office of those members.

(3) A person may not be appointed as a member of a board of governors for more than two consecutive terms.

(4) A member of a board of governors who fails without reasonable excuse to attend three consecutive meetings of the board of governors ceases to be a member.

(5) The chairman of a board of governors may at any time resign his office by instrument in writing addressed to the Minister, and upon the date of receipt by the Minister of the instrument, the chairman ceases to be a member.

(6) The deputy chairman or other member of a board of governors, other than the chairman, may at any time resign his office by instrument in writing addressed, and transmitted through the chairman, to the Minister, and upon the date of receipt by the Minister of the instrument the member ceases to be a member.

Temporary vacancy

3 The Minister may, in accordance with paragraph 1(2), appoint a person to fill a vacancy in the membership of a board of governors and the person so appointed shall hold office for the unexpired term of the former member.

Disqualification for membership

4 A person is not qualified for appointment as a member of a board of governors if he is employed by that board of governors.

Disqualification of members for certain offices

5 (1) A member of the board of governors is not qualified to be appointed to any office or employment under that board of governors.

(2) No person is, within one year commencing on the date on which he last held or acted in the office of member of a board of governors, qualified to be appointed to any office or employment under that board of governors.

Meetings

6 (1) A board of governors shall meet at least once in each school term and meetings shall be held at such places, on such dates and at such times as the board of governors considers necessary or expedient for the transaction of the business of the board of governors; and notice of such place, date and time shall be given in writing, to each member of

the board of governors, at least forty-eight hours before the time fixed for such meeting.

(2) The chairman may, at any time, call a meeting of a board of governors, and shall call a special meeting within fourteen days—

(a) of a request for that purpose addressed to him in writing and signed by any three members' or

(b) of a direction to that effect addressed to him in writing and signed by the Minister.

(3) A notice convening a special meeting of a board of governors shall state the purpose for which the special meeting is being convened.

(4) The chairman, or in his absence the deputy chairman, shall preside at a meeting of a board of governors.

(5) In the absence of the chairman or deputy chairman, or in the case of the inability to act of the chairman or deputy chairman, the members of a board of governors present and constituting a quorum shall elect one of their number to preside at that meeting.

(6) The principal, as ex officio member of a board of governors, may attend a meeting of the board of governors and may assist in its deliberations, but he shall not be counted for the purpose of constituting a quorum and shall have no vote.

Quorum

7 The quorum of a board of governors at any meeting is the majority of the total membership of the board of governors.

Decisions

8 The decisions of a board of governors shall be by a majority of the votes; and in any case in which the voting is equal, the chairman, deputy chairman or other member presiding at the meeting has, in addition to an original vote, a second or casting vote.

Minutes

9 (1) Minutes of each meeting of a board of governors shall be kept by such person as the board of governors appoints for the purpose; and must be confirmed by the chairman or deputy chairman at the next meeting of the board of governors.

(2) A certified copy of the confirmed minutes of each meeting shall be forwarded to the Minister within fourteen days after the meeting at which they were confirmed.

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Chief Education Officer entitled to attend or to be represented at meetings

- 10 (1) The Chief Education Officer—
- (a) may attend any meeting of a board of governors or of a committee authorised by a board of governors; or
 - (b) may be represented at any such meeting by a public officer authorised by the Chief Education Officer.
- (2) The Chief Education Officer or his representative may take part in the proceedings of any meeting at which he is present; but is not entitled to vote.

Appointment of committees

- 11 (1) A board of governors may appoint a committee for any of the purposes of the board of governors; and may delegate any of its functions to such a committee with or without restrictions or conditions.
- (2) The number of members of a committee appointed under this paragraph and their term of office shall be fixed by the board of governors.
- (3) A committee appointed under this paragraph may include persons who are not members of a board of governors, but the chairman and at least two thirds of the members of every committee must be members of a board of governors.
- (4) Any committee appointed by a board of governors under this paragraph may, subject to any restrictions imposed by the board of governors, appoint sub-committees.
- (5) Any sub-committee appointed under sub-paragraph (4) shall be constituted in such manner as, subject to any restrictions imposed by a board of governors, the committee determines.
- (6) The chairman and at least two thirds of the members of every sub-committee shall be members of a board of governors.
- (7) Subject to any restrictions imposed by a board of governors, where a committee pursuant to sub-paragraph (4) appoints a sub-committee the committee may delegate to the sub-committee, with or without such restrictions or conditions, any of its functions.

Disclosure of interest

- 12 (1) A member who is in any way directly or indirectly interested in any matter which falls to be considered by a board of governors shall disclose the nature of his interest at a meeting of the board of governors, and the disclosure shall be recorded in the minutes of the meeting.

(2) The member shall not take part in any deliberation or decision with respect to the matter if the board of governors decides that the interest in question might prejudicially affect the member's consideration of the matter.

(3) For the purposes of this paragraph, a notice given by a member at a meeting to the effect that he is a member of a specified body corporate or firm and is to be regarded as interested in any matter concerning that body or firm which falls to be considered after the date of the notice shall be sufficient disclosure of his interest.

Vacancy not to affect powers

13 The powers of a board of governors may be exercised notwithstanding any vacancy in their number.

Minister may declare office vacant

14 If a member of a board of governors becomes, in the opinion of the Minister, unfit to continue in office or incapable of performing his duties, the Minister shall forthwith declare his office vacant, and shall notify the fact in such manner as the Minister thinks fit, and thereupon the office shall become vacant.

Notification of membership

15 The membership of a board of governors as first constituted and any changes therein shall be published in the Gazette.

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