

EDUCATION.

19° Geo. V., No. XXXIII.

No. 33 of 1928.

[Affected by No. 26 of 1932 (a) and No. 38 of 1945 (b).]

[As amended by Acts No. 43 of 1929 (c), No. 7 of 1930 (d), No. 30 of 1943 (e), No. 30 of 1952 (f), and No. 44 of 1955 (g), and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to consolidate and amend the law relating to Public Education.

[Assented to 28th December, 1928.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Education Act, 1928-1955*.

Short title.
No. 33 of
1928, s. 1.
No. 44 of
1955, s. 1.

2. (1) The Acts mentioned in the First Schedule are hereby repealed.

Repeal.
No. 33 of
1928, s. 2.

(2) Except in so far as may be necessary to give effect to this Act, such repeal shall not—

Saving
provisions.

(i) affect the operation of any of the said Acts or alter the effect of the doing, suffering, or omission of anything prior to such repeal; or

(a) Assented to 15th December, 1932.

(b) Assented to 21st January, 1946.

(c) Assented to 31st December, 1929.

(d) Assented to 19th November, 1930. Expired 31st December, 1931.

(e) Assented to 12th November, 1943.

(f) Assented to 5th December, 1952. Proclaimed 29th May, 1953.

(g) Assented to 5th December, 1955.

- (ii) affect any appointment made, or right, interest, title, power, or privilege created, acquired, accrued, established, or exercisable prior to such repeal; or
- (iii) affect any duty, obligation, or liability imposed, created, or incurred, or any penalty, forfeiture, or punishment incurred or imposed or liable to be incurred or imposed, prior to such repeal; or
- (iv) affect any investigation, legal proceeding, or remedy in respect of any such right, interest, title, power, privilege, duty, obligation, liability, penalty, forfeiture, or punishment as aforesaid.

(3) Any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed and enforced, as if this Act had not been passed.

(4) All other acts, matters, and things commenced or in progress under any of the said Acts may, in so far as they are consistent with this Act, be continued and completed under this Act.

(5) All regulations made under any of the said Acts, which are in force at the commencement of this Act, shall, except in so far as they are inconsistent with this Act, continue in force, without alteration, or as altered by regulations made under this Act, until repealed by regulation made under this Act: Provided that any such regulation, though not expressly repealed, shall be deemed to be repealed in so far as it is inconsistent with this Act, or with any regulation made under this Act.

3. In this Act, unless the context otherwise requires,—

“Compulsory Officer” means a person employed by the Minister to secure the attendance of children at school.

Interpreta-
tion.

No. 33 of
1928, s. 3.
Amended by
No. 30 of
1943, s. 2.
No. 30 of
1952, s. 3.
[See No. 3 of
1899, s. 3.]

“Director” means the Director of Education.

“Efficient Schools” are schools certified by the Minister to be efficient for the purposes of this Act.

“Government School” means any elementary, secondary, or technical school established, or deemed to have been established by the Governor under this Act, or any Act hereby repealed.

“Kindergarten” means an assembly at appointed times of three or more children of not less than two nor more than six years of age for all or any of the following purposes: supervision, exercise, play, observation, imitation and construction and includes a nursery school, play centre or any similar institution, but does not include an assembly of children, all of whom are members of the same family or of not more than two families.

“Minister” means the Minister for Education.

“Parent” includes guardian and every person who is liable to maintain or has the actual custody of any child.

“Teacher” includes assistant teacher, or any person forming part of the educational staff of a school.

Administration.

4. The administration of this Act, and the control of the Education Department, shall be vested as heretofore in the responsible Minister of the Crown holding for the time being the office of Minister for Education.

Minister for Education.
No. 33 of 1928, s. 4.
57 Vict., No. 16 ss. 3 and 4.

5. The Minister in office at the commencement of this Act, and his successors in office, shall, for the purposes of this Act continue, without change of corporate entity, to be a body corporate under the name of the “Minister for Education,” with

Minister a body corporate.
No. 33 of 1928, s. 5.
[57 Vict., No. 16, s. 3.]

perpetual succession and a common seal; and by that name shall be capable of suing and being sued, acquiring, holding, leasing, and alienating real and personal property, and of doing and suffering all such other acts and things as may be necessary or expedient for carrying out the purposes of this Act.

Property
vested in
Minister.
No. 33 of
1928, s. 6.
[57 Vict.,
No. 16, s. 5.]

6. (1) All lands, tenements, and hereditaments, chattels, goods, and choses in action, and all other property of whatsoever estate, interest, or kind at the commencement of this Act vested in the Minister for Education, shall continue to be vested in the Minister.

(2) All property of whatsoever estate, interest, or kind which may be acquired for the purposes of this Act shall be conveyed, transferred, assigned, or delivered to the Minister, and shall thereupon vest in the Minister.

(3) All property vested in the Minister shall be held by him in trust for the purposes of this Act, and for and on account of the Crown.

Appointment
of officers.
Substituted
by No. 30 of
1952, s. 4.

7. (1) The Governor may—

- (a) subject to the provisions of the Public Service Act, 1904-1950,¹ appoint a Director of Education and such other officers as he deems necessary for the purposes of this Act; and
- (b) appoint or delegate to the Minister the appointment of teachers and other officers.

(2) The Minister may transfer any teacher from one school to another school, or promote any teacher, either on transfer or otherwise, subject to the regulations relating to the Board of Classifiers.

(3) Teachers are not subject to the Public Service Act, 1904-1950.¹

¹ Now Public Service Act, 1904-1956.

7A. (1) A person shall not be appointed permanently to the teaching staff of the Education Department unless he is a natural born or naturalised subject of Her Majesty.

Conditions under which aliens employed. Added by No. 30 of 1952, s. 4.

(2) A person who is not a natural born or naturalised subject of Her Majesty may be appointed temporarily to the teaching staff of the Department.

8. The Director of Education shall be the permanent head of the Department, and subject to the Minister, shall be responsible for the administration of this Act.

Director of Education. No. 33 of 1928, s. 8.

Schools and other means of Public Education.

9. The Minister may, subject to this Act, continue and maintain and carry on any Government schools in existence at the commencement of this Act, and may establish and maintain and carry on such other Government schools, and such other means of instruction, as he deems necessary or convenient for public education and the purposes of this Act.

Power to establish and maintain schools. No. 33 of 1928, s. 9.

All Government schools for elementary, secondary, and technical instruction established before the commencement of this Act, and under the control of the Department of Education, shall be deemed to have been established under this Act.

9A. Notwithstanding anything to the contrary in The Assisted Schools Abolition Act, 1895, the Treasurer of the State shall in every year place at the disposal of the Minister such moneys as may be provided by Parliament, to be applied wholly or partly in or towards—

Limited subsidising of schools. Added by No. 44 of 1935, s. 2.

- (a) subsidising efficient schools for the purposes and to the extent following, namely—
 - (i) for the purchase of projectors to the extent of one-half of the total cost of the purchase; and

- (ii) for the purchase of any radio equipment to the extent of one-half of the total cost of the purchase up to a maximum of fifty pounds for any one school in any one year; and
- (b) the provision, for the use by school children, of school stationery and of Government publications prepared specially for use in schools.

Training of Teachers.

Training of
teachers.
No. 23 of
1928, s. 10.

10. The Minister may continue and maintain the Training College established at Claremont for the education of teachers; and may, with the approval of the Governor, establish and maintain such other institutions and make such other provisions as he deems advisable for that purpose.

Attendance at Primary Schools.

No fees to be
charged in
elementary
schools.
No. 33 of
1928, s. 11.
[See No. 3 of
1899, s. 4.]

11. No fees shall be payable for children attending any Government elementary school.

Scale of fees
after 14.
No. 33 of
1928, s. 12.
Affected by
No. 26 of
1932, s. 2.
[No. 3 of
1899, s. 5.]

12. (1) The Minister may authorise and determine a scale of fees to be paid by any person for his or her own instruction in any Government school other than an elementary school.

Fees, to
whom pay-
able and how
recoverable.

(2) All such fees for instruction shall be paid to and received by the several persons authorised in that behalf by the Minister, and may be recovered by the Minister or by the person so authorised, by plaint and summons in a local court, or before a court of summary jurisdiction; and the production of a document, in writing, purporting to be signed by the Minister, authorising any person to collect such fees, or a copy of the *Gazette* containing therein a notice to that effect, shall be *prima facie* proof that such person is so authorised.

13. (1) Unless some reasonable excuse for non-attendance is shown—

Compulsory attendance.
No. 33 of 1928, s. 13.
Amended by No. 30 of 1943, s. 3.
No. 30 of 1952, s. 6.
[No. 3 of 1899, s. 6.]

- (a) the parent of every child of not less than six nor more than nine years of age shall, if there is a Government or efficient school within two miles of such child's residence, measured by the nearest road or other reasonable means of access, cause such child to attend such school on such days as the school is open;
- (b) the parent of every child of not less than nine nor more than fourteen years of age shall, if there is a Government or efficient school within three miles of such child's residence measured by the nearest road or other reasonable means of access, cause such child to attend such school on the days on which the school is open;
- (c) [*Deleted by No. 30 of 1952, s. 6.*]
- (d) the parent of every child of not less than six nor more than nine years of age shall, if satisfactory means of conveyance to a Government or efficient school is available so that the distance to be travelled by the child on foot does not exceed one mile, cause such child to attend such school on the days on which the school is open. The Minister shall be sole judge of the question whether the means of conveyance is satisfactory;
- (e) the parent of every child of not less than nine nor more than fourteen years of age shall, if satisfactory means of conveyance to a Government or efficient school is available so that the distance to be travelled by the child on foot does not exceed two miles, cause such child to attend such school on the days on which the school is open. The Minister shall be sole judge of the question whether the means of conveyance is satisfactory:

Provided always, that a continuous attendance of two hours for secular instruction by any child shall count as half a day's attendance; but this proviso shall not justify the absence of a child during any portion of the prescribed time for attendance, or the withdrawal of a child before the prescribed time for closing the school:

Provided also that where in accordance with the regulations a grant, at a prescribed rate per day is made to and accepted by the parent or guardian of a child who rides, drives or is conveyed to school, in lieu of a satisfactory means of conveyance being available, then in such case a satisfactory means of conveyance shall be deemed to be available within the meaning of paragraphs (d) and (e) of this section.

Added by
No. 30 of
1943, s. 3.

(2) Notwithstanding anything to the contrary contained in subsection (1) of this section, the Governor may at any time on the recommendation of the Minister by proclamation extend the maximum age for compulsory attendance of children at a Government or efficient school from fourteen years to fifteen years, and while a proclamation issued under this subsection remains in force, wherever the words "fourteen years of age" appear in any of the paragraphs contained in subsection (1) of this section, the words "fifteen years of age" shall be substituted therefor, and the said paragraphs shall be read and construed and have effect as if the words "fifteen years of age" were stated therein instead of the words "fourteen years of age."

Added by
No. 30 of
1943, s. 5.

(3) Where the Minister is of the opinion that a child has been sent or is kept away from the place where his parents or one of his parents reside or resides in order to avoid the compulsory provisions of this section the Minister may require the parents or parent of the child to send the child to a Government or other efficient school to which the parents or parent would have been obliged under this section to send the child if the child had resided with the parents or parent from whose place of residence the child has been sent or kept away.

14. Any of the following reasons shall be deemed a reasonable excuse:—

Reasonable
excuse.
No. 33 of
1928, s. 14.
Amended by
No. 30 of
1943, s. 4.
No. 30 of
1952, s. 7.
[No. 3 of
1899, s. 7.]

(a) That a child is under regular and efficient instruction at home or elsewhere of which fact notice in writing has been given by the parents or parent to the Director not more than fourteen days after such instruction is commenced or not more than fourteen days after the date when the parents or parent would be in the ordinary course obliged under section thirteen of this Act to send the child to a Government or efficient school; and whether such instruction is efficient or not shall be a matter for the decision of the Minister, who may require the report of a Superintendent of Education thereon.

(b) That the child has been prevented from attending school by sickness, danger of infection, temporary or permanent infirmity, or any unavoidable causes, but such excuse shall not be entertained unless the parent has given the teacher notice thereof, in writing, within seven days after the occurrence of such prevention, or within such extended time as the court may deem to have been reasonable in the circumstances. A medical certificate must be produced if required by the Minister.

15. (1) The Minister may from time to time appoint officers whose duty it shall be to enforce the attendance required by this Act, and the officers so appointed shall be empowered to accost in any place to which the public resort or are admitted whether on payment of a fee for admission or not, and obtain the names and addresses of children of school age who are apparently not in attendance at school.

Compulsory
officers
may accost
children in
public places.
No. 33 of
1928, s. 15.
Amended by
No. 30 of
1943, s. 5.
[No. 3 of
1899, s. 9.]

(2) Any person who accosts a child in any place referred to in subsection (1) of this section and falsely represents that he is an officer of the Educa-

tion Department, shall be guilty of an offence and liable on summary conviction to a penalty not exceeding ten pounds.

Added by
No. 30 of
1943, s. 5.

(3) Every person shall permit the entry of any officer appointed under this section to any place referred to in subsection (1) of this section for the purpose of carrying out his duties and exercising his powers under this section; and any person who hinders or obstructs any such officer in the carrying out of his duties or the exercise of his powers aforesaid shall be guilty of an offence.

Penalty—Ten pounds.

Penalties for
neglect.
No. 33 of
1928, s. 16.
Amended by
No. 30 of
1943, s. 6.
No. 30 of
1952, s. 8.
[No. 3 of
1899, s. 10.]

16. (1) The parent of any child of not less than six or more than fourteen years of age, who, without reasonable excuse, neglects to cause such child to attend a Government or other efficient school, in accordance with this Act, may be summoned before a court of summary jurisdiction, on the complaint of a compulsory officer or an inspector, or of any other person authorised in that behalf by the Minister, and shall be guilty of an offence against this Act, punishable upon conviction before such court, and shall be liable to pay a penalty of not less than one pound nor exceeding five pounds.

Onus of
Proof.

(2) The allegations in the complaint that the complainant is a compulsory officer, or a person authorised in that behalf by the Minister, and that a child is not less than six nor more than fourteen years of age, and that the parent thereof neglects to cause such child to attend such school without reasonable excuse as aforesaid, shall be deemed *prima facie* evidence of the fact until the contrary is proved, and in every case the parents of a child may be witnesses.

Certificate
of attend-
ance or
non-attend-
ance.
[No. 3 of
1899, s. 11.]

(3) A certificate purporting to be under the hand of the principal teacher of a Government or efficient school stating that a child is or is not attending such school, or stating the particulars of attendance of a child at such school, shall be evidence of the facts stated in such certificate.

(4) Any complaint under this section shall be heard and determined by a children's court.

(5) Whenever in accordance with the provisions of subsection (2) of section thirteen of this Act the Governor has by proclamation extended the maximum age for compulsory attendance at a Government or efficient school from fourteen years of age to fifteen years of age, and whilst such proclamation continues in force, the words "fifteen years of age" shall be substituted for the words "fourteen years of age" wherever the latter appear in the foregoing subsections of this section, and the said subsections shall be read and construed and have effect as if the words "fifteen years of age" were stated therein instead of the words "fourteen years of age."

Added by
No. 30 of
1943, s. 6.

17. (1) No person shall take into his employment or cause to be employed during school hours any child under the age of fourteen years who is not exempt from school attendance.

Employment
of children
of compul-
sory age.

No. 33 of
1928, s. 17.

Amended by
No. 30 of
1943, s. 7.

[No. 3 of
1899, s. 12.]

(2) A parent who employs his child in any labour exercised by way of trade, or for the purpose of gain, shall be deemed under this section to take such child into his employment.

(3) Every person who takes a child into his employment or causes a child to be employed in contravention of this section shall be guilty of an offence, and liable on conviction to a penalty of not exceeding five pounds.

(4) [*Deleted by No. 30 of 1943, s. 7.*]

(5) A parent who gives to an employer of his child, or to any duly appointed officer, false information on any matter to which this section relates, shall be guilty of an offence, and liable on conviction to a penalty of not exceeding five pounds.

(6) Whenever in accordance with the provisions of subsection (2) of section thirteen of this Act the Governor has by proclamation extended the maximum age for compulsory attendance at a

Added by
No. 30 of
1943, s. 7.

Government or efficient school from fourteen years of age to fifteen years of age and whilst such proclamation remains in force, the word "fifteen" shall be substituted for the word "fourteen" in subsection (1) of this section, and subsection (1) shall be read and construed and have effect as if the word "fifteen" were stated therein instead of the word "fourteen."

Habitual
truants.
No. 33 of
1928, s. 18.
Amended by
No. 30 of
1943, s. 8.
[No. 3 of
1899, s. 13.
Child Wel-
fare Act,
1907-27, s.
42¹.]

18. (1) If a child is constantly and habitually absent from school, the parent of such child may be summoned on the complaint of a compulsory officer or an inspector, or of any other person authorised in that behalf by the Minister, before a children's court under the Child Welfare Act, 1907-1927,¹ to show cause why such child should not be sent to an institution under the said Act.

(2) Upon the hearing of the summons the court may, without prejudice to any proceedings against the parent for an offence against section seventeen of this Act, order such child to be sent to an institution for any period not exceeding six months.

(3) If the court is satisfied by the parent that he has used all reasonable efforts to cause the child to attend school but that the child is beyond his control, the court may, without inflicting a penalty, order the child to be sent to an institution till the age of fourteen.

(4) The parent shall, if of sufficient ability, contribute for the maintenance and training of the child in such institution a sum not exceeding twelve shillings a week, the amount to be assessed by the court at the time of the committal of the child: Provided that the court may, from time to time, vary the amount in accordance with the means of the person so ordered to contribute, but so that the contribution shall not exceed twelve shillings a week.

(5) This section shall, *mutatis mutandis*, apply to any child whose attendance at school would, owing to immorality or gross misconduct, be harmful to other children.

Incorrigible
children.

¹ See now Child Welfare Act, 1947-1955.

(6) Whenever in accordance with the provisions of subsection (2) of section thirteen of this Act the Governor has by proclamation extended the maximum age for compulsory attendance at a Government or efficient school from fourteen years to fifteen years and whilst such proclamation remains in force the word "fifteen" shall be substituted for the word "fourteen" in subsection (3) of this section, and subsection (3) shall be read and construed and take effect as if the word "fifteen" had been stated therein instead of the word "fourteen."

Added by
No. 30 of
1943, s. 8.

19. Whenever a parent is summoned to attend a court, it shall be obligatory upon such parent to produce to the court the child in respect of whom complaint has been made, if required in writing to do so by a compulsory officer or other person authorised in that behalf.

Parent
summoned
to produce
child to
court.
No. 33 of
1923, s. 19.

Penalty: Ten shillings.

20. (1) It shall be the duty of a parent of a blind, deaf, mute, cerebrally palsied or mentally defective child—

Blind, deaf,
mute,
cerebrally
palsied and
mentally
defective
children.

- (a) in the case of a deaf or mute child to notify the Minister in writing of the name and whereabouts of the child within one month after he attains the age of three years;
- (b) in the case of a blind, cerebrally palsied or mentally deficient child to notify the Minister in writing of the name and whereabouts of the child within one month after he attains the age of four years;
- (c) to provide efficient and suitable education for the child from an age to be determined in each case by the Minister, until he attains the age of sixteen years.

No. 33 of
1928.
Amended by
No. 30 of
1952, s. 9.
Cf. No. 55 of
1919, s. 2.

(2) If the parent having the actual custody of any such child is unable to provide such education, he shall give notice in writing to the Minister of such inability, and shall, from such date as is specified by the Minister, send the child to such (if any)

Instructions
for such
children.

institution as the Minister directs, and shall pay such periodical sum or sums towards the cost of the education or maintenance and education thereat of the child as is or are agreed between such parent and the Minister.

Maintenance.

(3) If no such agreement is made, then, upon the complaint of the Minister, or of any person authorised in that behalf by the Minister, a court may, if satisfied that such parent is able to contribute towards the education or maintenance and education of such child, make an order that the parent shall pay such periodical sums, not exceeding twelve shillings a week, towards the cost of the education or maintenance and education of the child as the court deems proper and are specified in the order.

(4) If such parent—

Proceedings
on failure
to provide
education.

(a) fails to give notice to the Minister or to provide efficient and suitable education for such child, as required by subsection (1), and fails to give notice of inability as required by subsection (2) of this section;

or

(b) fails to send such child to such (if any) institution as the Minister directs under the said subsection (2),

such parent may be summoned in the name of the Minister, or of any person authorised in that behalf by the Minister, to attend before a court, at a time and place mentioned in the summons, to show cause why such child should not be sent to an institution.

Order of
Court.

(5) Upon the hearing of such summons, the court may, if of opinion that the application should be granted, either—

(a) order that such child be sent to an institution specified by the court; or

(b) commit such child to an institution so specified.

(6) If the court orders that the child be sent to an institution, such parent shall cause such child to attend the specified institution on every occasion on which it is open for instruction, and in default thereof shall, unless reasonable excuse is shown, be liable, for a first offence, to a penalty not exceeding five shillings, and for any subsequent offence to a penalty not exceeding two pounds.

Duty of parent if ordered to send child to an institution.

(7) If the court commits the child to an institution, the order of commitment shall state the period of detention, which period shall terminate not later than the time when the child will attain the age of sixteen years.

When child committed to an institution.

(8) A court may, at any time, on the application of the Minister, or of any person authorised in that behalf by the Minister, commit any child who has been committed to an institution under this section to another institution to be kept therein for the remainder, or any part of the period for which such child was committed to the first-mentioned institution.

Removal to another institution.

(9) Upon the hearing of the summons under subsection (4) of this section the court, or at any time thereafter, upon the complaint (which may be made at any time) of the Minister or of any person authorised by him in that behalf, the same or another court, if satisfied that any parent of the child committed as aforesaid is able to contribute towards the maintenance of such child, may, subject to subsection (11) of this section, make such an order as mentioned in subsection (3) of this section against such parent.

Cost of maintenance at institution.

(10) Upon the complaint (which may be made at any time) of the Minister or of any person authorised by him in that behalf, or of any parent who has, by an order made under any provision of this section, been ordered to make payments, a court may, from time to time, according to the ability of such parent, or the respective abilities of such parent, and any other parent of the child, make a further order—

Variation of maintenance order.

- (a) varying the sums to be paid by virtue of the first-mentioned order; or

(b) continuing or varying such sums and distributing the liability to pay the same amongst several parents; or

(c) suspending or renewing the operation of any such order or further order;

but so that such sums shall not exceed twelve shillings per week.

Notice of application for maintenance.

(11) No person shall, by any order made under this section, be ordered to make any payments unless the summons, or a notice of the hearing of the complaint whereon the order is to be made, has been served on him, or he has had such other notice of the hearing as the court deems reasonable.

Evidence.

(12) For all the purposes of this section, and in any proceedings under this section—

(a) a certificate, purporting to be signed by a legally qualified medical practitioner, certifying that in his opinion the sight, hearing, speech or mind of the child therein mentioned is so defective as to render such child unfit to be educated except by special means, shall be *prima facie* evidence that such child is blind, deaf, mute, cerebrally palsied or mentally defective according to the nature of the certificate;

(b) whether efficient and suitable instruction is being provided for a blind, deaf, mute, cerebrally palsied or mentally defective child or not shall be a matter for the decision of the Minister (who may, if he deems it necessary, obtain a report thereon by an inspector or some other person authorised by him in that behalf), and the Minister's decision shall be conclusive.

Meaning of "Institution" and "Court."

(13) In this section "institution" means an institution for the education of blind, deaf, mute, cerebrally palsied or mentally defective children, and "court" means a children's court under the Child Welfare Act, 1947-1950.

(14) The Minister or any person authorised by him to grant exemption under this section, may by writing under his hand grant exemption from all or any of the provisions of this section, in respect of a blind, deaf, mute, cerebrally palsied or mentally defective child, if by reason of the poverty or sickness of any parent of the child, or other pressing necessity he deems it necessary so to do.

Added by
No. 30 of
1952, s. 9.

21. The Minister may refuse the admission of any child to any Government school if accommodation has been provided for such child in another Government school nearer to his dwelling-place, or if there is more suitable accommodation in some other Government school within the prescribed distance.

Minister
may refuse
admission to
Government
school in
certain cases.
No. 33 of
1928, s. 21.
[No. 3 of
1899, s. 14.]

Parents and Citizens' Associations.

22. (1) The parents or guardians of children attending any Government school, or group of schools, together with other persons interested in the welfare of such schools, may, in the prescribed manner, form a "Parents and Citizens' Association," hereinafter referred to as an association.

Parents and
Citizens'
Associations.
No. 33 of
1928, s. 22.
[No. 27 of
1922, s. 2.]

An annual subscription of one shilling shall entitle all persons to full membership.

(2) The teachers of such Government school or group of schools shall, *ex officio*, be members of the association, and may be elected to any office in the association, but shall not be eligible for nomination as members of the school board.

[No. 27 of
1922, s. 5
(3).]

23. The objects of an association shall be to promote the interests and efficiency of such Government school or group of schools in co-operation with the teaching staff, and to assist the teaching staff in all its relations to the community.

Objects of
association.
No. 33 of
1928, s. 23.
[No. 27 of
1922, s. 3.]

24. Every association shall have power to frame its own rules, but the rules shall not come into force until they have been approved by the Minister.

Rules of
associations.
No. 33 of
1928, s. 24.
[No. 27 of
1922, s. 4.]

Officers of
associations
and appoint-
ment of
School
Boards.
No. 33 of
1928, s. 25.
[No. 27 of
1922, s. 5.]

25. (1) Where an association has been established the members shall at their first meeting and at each annual meeting to be convened thereafter for the purpose, receive nominations for the election from among their number of a president, two vice-presidents, a treasurer, and a secretary.

Notice of the meeting shall be given by the secretary to all members at least seven days beforehand, and nominations may be sent in writing to the secretary by members who cannot attend.

If no more nominations are received than are sufficient to fill the offices, the nominees shall be declared elected.

If more than one member is nominated for any of the positions of president, treasurer, or secretary, or if more than two members are nominated for the positions of vice-presidents, an election shall be held by ballot.

The Minister may appoint a person to act as secretary *pro tem* for the purposes of the first meeting of an association.

(2) The five members elected as aforesaid shall form the school board for the locality for the year, except in cases where teachers in Government schools have been elected to one or more of the above-mentioned offices.

In such cases one or more members of the association, who are not teachers in Government schools, shall be elected at the next meeting to fill the vacant positions on the school board, nominations being received as aforesaid.

(3) If an election by ballot is necessary, the head teacher of the school, or, if more schools than one are concerned, the head teacher of the largest school, shall be the returning officer and shall conduct the ballot. Every member who has paid his subscription for the year, and all *ex officio* members, may vote, whether present at the meeting, or, subject to the regulations, in absence.

(4) The powers and duties of school boards shall be such as are prescribed by regulations under this Act.

26. A balance sheet showing all receipts and expenditure and properly audited shall be submitted to the annual meeting, and a copy shall be forwarded to the department.

Balance sheet.
No. 33 of 1928, s. 26.

27. An association or school board shall not exercise any authority over the teaching staff, or interfere in any way with the control or management of any Government school.

Association or board not to exercise authority over teaching staff.
No. 33 of 1928, s. 27.
[No. 27 of 1922, s. 7.]

Regulations.

28. (1) The Minister may make regulations for all or any of the following purposes:—

Regulations.
No. 33 of 1928, s. 28.
Amended by No. 30 of 1943, s. 9.
No. 30 of 1952, s. 10.

- (a) The appointment, powers and duties of officers of the department.
- (b) The establishment, maintenance and classification of schools.
- (c) The general management of schools, the admission, transfer, and classification of children and pupils, the discipline to be enforced, and the time and mode of teaching in schools, including religious instruction.
- (d) The admission, training, examination, appointment, promotion, transfer, dismissal, resignation, leave of absence, discipline, and duties of teachers.
- (e) The classification of teachers, their salaries and allowances.
- (f) [*Deleted by No. 30 of 1952, s. 10.*]
- (g) The qualifications for admission of pupils to secondary schools, technical and other schools, and continuation classes, and the fees to be paid by pupils, and the course of instruction in such schools and continuation classes.

- (h) The establishment of scholarships, and the conditions connected therewith.
- (i) The inspection of schools, and the powers and duties of Superintendents of Education.
- (j) The staffing and accommodation of schools, and the maintenance and management of school premises and equipment.
- (k) The making of grants to assist in the conveyance of children to school.
- (l) The furnishing of information by parents of children as to the names of such children and their parents, date of birth, their residence, and the school last attended.
- (m) Health regulations, and the prohibition of attendance at a Government school of any child whose presence is injurious to the health, welfare or morality of the other children.
- (m1) Compelling the parent of a child to have the child medically treated or to have the child receive proper attention to cleanliness:

Provided that the regulations shall provide that the parent shall not be under any obligation to have the child medically treated if the parent is unable to afford the cost of such medical treatment and there is no free medical treatment available in such case within a reasonable distance of the place where the child is residing.
- (n) The management of the Teachers' College and other similar institutions, the appointment, salaries, and duties of the principal and teaching staff, lecturers and other employees, and the admission, training, examination and attendance of students.

- (o) The constitution of parents and citizens' associations; the nomination by ballot of members of associations to serve on school boards, the conduct of the ballot, and to enable votes of members who are unable to vote in person to be taken in absence; the powers and duties of school boards; and for all such other matters as may be deemed necessary to give effect to sections twenty-two to twenty-eight of this Act.
- (p) The prescribing of registers and records to be kept, returns to be made, and forms to be used.
- (pl) The terms, reservations and conditions upon which any property vested in the Minister under this Act may be leased to a teacher for living quarters.
- (q) Any other purpose that may be necessary or convenient for carrying out the provisions of this Act.
- (r) Imposing a penalty not exceeding twenty pounds for the breach of any regulation.

Inserted by
No. 30 of
1952, s.10.

(2) Regulations for the classification of the teaching staff of the department, and the fixing of the salaries and other remuneration to be paid to teachers, shall be subject to the provisions of the Public Service Appeal Board Act, 1920.¹

(2a) There shall be a classification of teachers, their salaries and allowances, as provided for in paragraph (e) of subsection (1) of this section, once at least in every five years.

Inserted by
No 43 of
1929, s. 2.

(3) [*Deleted by No. 30 of 1952, s. 10.*]

(4) [*Deleted by No. 30 of 1952, s. 10.*]

(5) [*Deleted by No. 30 of 1952, s. 10.*]

28A. [*Inserted by No. 7 of 1930, s. 2. Repealed by No. 30 of 1952, s. 11.*]

¹ Now Public Service Appeal Board Act, 1920-1950.

Miscellaneous.

Religious instruction may be given. No. 33 of 1928, s. 29. [No 16 of 1893, ss. 18-21.]

29. (1) In every Government elementary school a portion of each week may be set apart when the children of any religious persuasion may be instructed by clergymen or other religious teachers of such persuasion, accredited by the denominational authority, subject to the conditions following:—

- (a) The children receiving such religious instruction shall be separated from the other children of the school.
- (b) The time during which such religious instruction is given shall be fixed by the head teacher of such school, subject to the approval of the Director of Education.
- (c) The religious instructions to be so given shall in every case be the religious instruction authorised by the church to which the clergyman or other religious teacher belongs.

In case of non-attendance of clergyman secular instruction to be given.

(2) If the clergyman or religious teacher does not attend during any portion of the period set apart for religious instruction, such period shall be devoted to the ordinary secular instruction in such school.

Teaching to be non-sectarian, but to include general religious instruction.

(3) In all Government schools the teaching shall be strictly non-sectarian, but the words "secular instruction" shall be held to include general religious teaching as distinguished from dogmatic or polemical theology.

Objections to religious instruction.

(4) No child shall be required to receive any instruction in religious subjects if the parent of such child signifies his objection to such religious instruction by notice in writing to the head teacher of the school.

No condition as to attendance at a place of religious worship to be imposed. No. 33 of 1928, s. 30. [35 Vict., No. 14, s 22.]

30. (1) It shall not be required, as a condition of any child being admitted into or continuing in any school, that he shall attend or abstain from attending any Sunday school, or any place of religious worship, or that he shall attend any

religious observance or any instruction in religious subjects in the school or elsewhere, from which observance or instruction he may be withdrawn by his parent, or that he shall, if withdrawn by his parent, attend the school on any day exclusively set apart for religious observance by the religious body to which his parent belongs.

(2) It shall be no part of the duty of an inspector to inquire into any instruction in religious subjects given at any school, or to examine any scholar in religious knowledge, or in any religious subject or book.

31. The Minister, from time to time, may cause an educational census to be taken of all children within any area, and upon notice of such census appearing in the *Gazette* the Minister shall appoint some person to call at every house within such area, and every householder shall thereupon give such information to such person as enables him to fill up the form of return in the Second Schedule hereto; or, if from any cause such information is not then given, such person may thereupon leave at the house of any householder neglecting to give such information a copy of such form or return, and after the expiration of seven days call for the same; and every householder at whose house such form of return has been left shall, within seven days, fill up the same or cause it to be filled up, and return it when called for, and whenever and as often as any householder neglects to fill up such form of return or cause the same to be filled up, and to return the same when called for, or wilfully fills the same up with an untrue statement, or gives false information to such person aforesaid, the householder shall be guilty of an offence against this Act, and summarily punishable upon conviction before a court of summary jurisdiction, and shall be liable to pay a sum not exceeding five pounds for every such offence, and in default of the payment thereof he shall be liable to a term of imprisonment not exceeding one month.

Census
may be
taken.
No. 33 of
1928, s. 31.
[No. 3 of
1899, s. 15.]

Second
Schedule.

32. [Repealed by No. 30 of 1952, s. 12.]

Power to inspect any school teaching to leaving certificate standard. Added by No. 30 of 1952, s. 13.

32A. (1) The proprietor, head master or principal teacher of any school which provides instruction up to and including the leaving certificate examination of the Public Examinations Board of Western Australia, shall apply to the Minister, within one month from the commencement of the Education Act Amendment Act, 1952, or the establishment of the school, to have the school registered in the register of efficient schools kept in the Education Department for the purpose.

Penalty: Ten pounds.

(2) This section shall not apply to a school which on the commencement of the Education Act Amendment Act, 1952, is included in the latest list of schools, published in the *Gazette*, which have been inspected and found efficient or have been certified to be efficient for the purpose of this Act.

Inspection of schools applying to be found efficient. Added by No. 30 of 1952, s. 13.

32B. (1) The Minister shall cause the school in respect of which application for registration under subsection (1) of section thirty-two A of this Act has been made to be visited by a Superintendent of Education for the purpose of inspecting the school or the scholars attending the school, if upon inspection the school is found to be efficient as to the instruction given the Minister shall certify the school to be efficient for the purposes of this Act and shall cause the school to be included in the register of efficient schools.

List of efficient schools to be published.

(2) The Minister shall cause a copy of the list of schools which have been inspected and found efficient, together with the names of the proprietors, head masters or principal teachers of the schools to be published from time to time in the *Gazette*.

Removal of schools from list of efficient schools.

(3) The Minister may from time to time cause a school included in the register of efficient schools to be inspected by a Superintendent of Education and may remove from the register a school that at any time is found on inspection not to be efficient and a school which is so removed from the register thereupon ceases to be an efficient school.

32C. (1) It shall be the duty of a head teacher of a school to ensure that for the whole of the period of time in each week that the school is open for instruction, except any time occupied in teaching a prescribed foreign language or the literature thereof, the instruction given at the school is given through the medium of the English language.

Teaching to be in English language except instruction in prescribed foreign language and literature. Added by No. 30 of 1952, s. 13.

(2) If the head teacher of a school fails to comply with the provisions of this section, the head teacher and the proprietor of the school shall be liable to a penalty not exceeding twenty-five pounds and in the case of continuing offence to a further fine of ten pounds for each week during which the offence continues.

32D. (1) For the purpose of ascertaining whether all the children attending a school are being instructed through the medium of the English language, to the extent required by section thirty-two C of this Act, a person authorised by the Minister may, at any time with or without notice, enter the building in which the school is conducted and the premises thereof and make such investigations as may to him appear necessary.

Added by No. 30 of 1952, s. 13.

(2) A proprietor, and head teacher of a school shall afford all such facilities as they respectively are able, for any investigation authorised by this section, and a person shall not in any way interfere with or obstruct any person in the exercise of any power under this section.

Penalty: One hundred pounds.

33. The proprietor, head-master, or principal teacher of any school not being a Government school established under an Act relating to public education, shall keep a register or list of attendances of all scholars attending his school, in a form approved by the Minister for Education, which shall be open to inspection at such times in every year as may be mutually agreed upon by a Superintendent of

Schools other than Government to keep registers of attendance and supply information. No. 33 of 1928, s. 33. Amended by No. 30 of 1952, s. 14. [No. 3 of 1899, s. 17.]

Education, compulsory officer, or other person duly authorised by the Minister; and such proprietor, head master, or principal teacher shall furnish, when required, to a Superintendent of Education, compulsory officer, or other person duly authorised by the Minister, either in writing or verbally, any information concerning the attendance of any scholar entered on the roll of his school, and shall allow the said Superintendent of Education, compulsory officer, or other person duly authorised by the Minister, to inspect and make copies from the said register.

Proprietors of private schools to make monthly and quarterly return of attendances.
No. 33 of 1928, s. 34.
Amended by No. 30 of 1943, s. 10,
No. 30 of 1952, s. 15.
[No. 6 of 1905, s. 4,
No. 30 of 1926, s. 4.]

34. (1) The proprietor, head-master, or principal teacher of every elementary or secondary school, not being a Government school established under an Act relating to public education—

- (a) shall forward to the Education Department in Perth within the first seven days of every month, a return in the form of the Third Schedule of this Act, giving the names of all scholars between the ages of six and fourteen years who have been absent on any occasion without satisfactory excuse during the preceding month, and a list of all scholars between those ages who have been admitted, with the date of admission, and the name of the last school attended, and a list of all the scholars who have left during the preceding month; and
- (b) shall forward to the Education Department in Perth, within seven days after the close of every school quarter, such statistical information as may be prescribed;
- (c) for the purposes of this section “elementary school” means any school which has not been placed on the list of secondary schools of the Education Department.

(2) If the provisions of this section, or of section eighteen, are not duly complied with, the proprietor shall be liable to a penalty not exceeding forty shillings.

(3) Whenever in accordance with the provisions of subsection (2) of section thirteen of this Act the Governor has by proclamation extended the maximum age for compulsory attendance at a Government or efficient school and whilst such proclamation continues in force the word "fifteen" shall be substituted for the word "fourteen" in line five of paragraph (a) of subsection (1) of this section and the said paragraph (a) shall be read and construed and have effect as if the word "fifteen" had been stated therein instead of the word "fourteen."

Added by
No. 30 of
1943, s. 10.

34A. (1) This section shall apply to every kindergarten notwithstanding that children six years of age or over that age are admitted to or are attending such kindergarten.

Kindergartens.
Inserted by
No. 30 of
1943, s. 11.
Amended by
No. 30 of
1952, s. 17.

(2) No person shall conduct or carry on or be employed or engaged or serve or engage, whether as principal servant or agent, in the conducting or carrying on of a kindergarten unless the conducting or carrying on of such kindergarten is authorised by a permit issued by the Minister under this section.

(3) A permit to conduct or carry on a kindergarten shall not be issued to a male person.

(4) The person holding a permit to conduct or carry on a kindergarten shall not employ or suffer or permit any male person to take part in the conducting or carrying on of a kindergarten conducted or carried on by the holder of such permit.

(5) If any person shall conduct or carry on or be employed or engaged or serve or engage, whether as principal servant or agent or otherwise, in the conducting or carrying on of a kindergarten in contravention of any of the provisions of this section he shall be guilty of an offence.

Penalty—One hundred pounds or imprisonment with or without hard labour for a period not exceeding six months.

(6) The Minister may, on the recommendation of the Director—

- (a) grant or refuse permits to conduct or carry on kindergartens under this section; and
- (b) cancel and revoke at any time and without giving any reason, any permit granted by him under this section.

(7) Any person who desires to obtain a permit under this section shall make application in writing signed by her in the form prescribed by the regulation, shall address such application to the Director, and shall furnish therewith the prescribed particulars and such other particulars as the Director may require.

(8) Every permit granted by the Minister under this section shall, subject to paragraph (b) of subsection (6) of this section, have effect for one year from the date of the granting thereof and no longer. Provided that the Minister may, if in any case he deem it expedient, grant a permit for a period less than one year.

(9) (a) Every kindergarten being conducted or carried on under the authority of this section shall be subject to inspection by Superintendents of Education appointed under this Act in the same manner and to the same extent as Government schools are subject to inspection by such Superintendents of Education, and

(b) Where, in respect of any such kindergarten, the Minister so directs, the provisions of sections thirty-three and thirty-four of this Act with such adaptations as may be necessary, shall apply to such kindergartens.

Penalty for disturbance.
No. 33 of 1928, s. 35.
[No. 3 of 1899, s. 18.]

35. Any person who wilfully disturbs any State or other school established under this Act, or who upbraids, insults, or abuses any teacher in the presence or hearing of the pupils assembled in such school, or the playground, shall be guilty of an

offence against this Act, summarily punishable upon conviction before a court of summary jurisdiction, and shall be liable to a penalty not exceeding forty shillings and not less than ten shillings.

36. All bursaries and scholarships granted by the Governor out of the public funds shall be open for competition among the children being educated at any Government or other efficient school.

Regulations
as to
examinations
for certain
bursaries
and
scholarships.
No. 33 of
1928, s. 36.
[No. 3 of
1899, s. 19.]

37. (1) Any teacher in the service of the Education Department who, for alleged misconduct or breach of the regulations, is—

Teachers'
Appeal
Board.
No. 33 of
1928, s. 37.
[No. 30 of
1926, s. 6.]

- (a) fined any amount in excess of fifteen shillings;
- (b) transferred at his own expense;
- (c) reduced to a lower class or grade;
- (d) reduced from any position to a position carrying a lower salary; or
- (e) dismissed;

may appeal to an Appeal Board constituted as hereinafter provided.

(2) The Appeal Board shall consist of the following persons:—

- (a) A Police or Resident Magistrate to be appointed by the Governor, and to be the Chairman of the Board.
- (b) A representative of the Director of Education, to be appointed by him.
- (c) The representative of the teachers, or his deputy for the time being, on the Public Service Appeal Board constituted under the Public Service Appeal Board Act, 1920.¹

(3) Notice of appeal to the Board shall be given to the Director of Education within one month after receipt of the notification of the decision appealed

¹ Now Public Service Appeal Board Act, 1920-1950.

against, and the appeal shall be heard as soon as practicable after the date of the notice being so given. The sum of two pounds shall be deposited by the appellant as security for costs.

(4) The decision of any two members of the Board shall be the decision of the Board.

(5) On any such appeal the following provisions shall apply:—

- (a) The Board may admit evidence taken at any departmental inquiry at which the appellant was present and had an opportunity of hearing the evidence and of giving evidence.
- (b) Evidence of witnesses resident more than twenty miles from the place of the sitting of the Board may be taken by affidavit or otherwise, as prescribed by the Board.
- (c) All evidence shall be taken on oath.
- (d) The teacher may conduct his case in person or by an agent, but no legal practitioner shall appear on behalf of the appellant or the department.
- (e) The Board may regulate its own procedure and shall have the same powers as to witnesses, papers, and documents as the Public Service Appeal Board constituted under the Public Service Appeal Board Act, 1920.¹
- (f) The Board may confirm, modify, or reverse any decision, determination, or finding appealed against, and the decision of the Board shall be final and be given effect to.
- (g) The Board may, in its discretion, fix the costs of any appeal, and direct by whom and in what manner the costs shall be paid.
- (h) Any costs awarded against an appellant shall be recoverable as a debt due to the Crown.

¹ Now Public Service Appeal Board Act, 1920-1950.

- (i) Any costs awarded to an appellant shall be payable by the Department.

(6) An appeal shall not be heard in public, unless for some special reason the Board deems it advisable that it should be so heard.

37A. Where an agreement in the form prescribed by the regulations is entered into between the Minister and a student either alone or with others, setting out the terms and conditions upon which the student is admitted to the teachers college, if the parent or guardian of the student, or if he has no parent or guardian, a stipendiary magistrate, endorses his consent to the execution by the student of the agreement, the student and all other parties to the agreement shall notwithstanding that the student was under the age of twenty-one years when he executed the agreement, be bound by each and every term and condition expressed therein to be binding upon him or them.

Student bound by agreement. Added by No. 30 of 1952, s. 18.

37B. Notwithstanding the provisions of section thirty-seven A of this Act or of any other Act or law or rule or practice of law—

Bonds entered into and agreements made by students and others before passing of Education Act Amendment Act, 1952, valid. Added by No. 30 of 1952, s. 18.

- (a) where before the commencement of the Education Act Amendment Act, 1952, an agreement in writing has been made, between the Minister and a student either alone or with others, setting out the terms and conditions upon which the student was admitted to the teachers college, the student and all other parties to the agreement, shall notwithstanding that the student was under the age of twenty-one years when he executed the agreement, be bound by each and every term and condition expressed therein to be binding upon him or them;
- (b) a bond entered into before the commencement of the Education Act Amendment Act, 1952, whether jointly or severally by a party to the agreement or by any person not being

a party to the agreement, conditioned on the due performance and observance by the student of the terms and conditions on his part to be performed and observed and contained in the agreement shall if the student has accepted any financial assistance under the agreement, be deemed to be valid and binding on that party or that person on and from the date thereof;

- (c) if at any time before or after the commencement of the Education Act Amendment Act, 1952, the student does not perform or observe the terms and conditions on his part to be performed, observed and contained in the agreement, a person who entered into a bond conditioned on the due performance or otherwise of the terms and conditions by the student, shall be liable to pay the sum on which the bond is conditioned to Her Majesty or otherwise as the bond provides.

Annual report.
[35 Vic., No. 14, s. 6.]
No. 33 of 1928, s. 38.

38. The Minister shall, in each year, make a report to the Governor on the administration of this Act, and such report shall be laid before both Houses of Parliament.

Sections of Schedule 2 of Interpretation Act incorporated.
No. 33 of 1928, s. 39.

39. Sections A, F, G, and H of the Second Schedule to the Interpretation Act, 1918,¹ are incorporated with this Act.

No. 33 of 1928, First Schedule.

First Schedule.

Date of Act.	Title.
35 Vict., No. 14	Elementary Education Act, 1871.
38 Vict., No. 5	Elementary Education Act Amendment Act, 1874.
41 Vict., No. 11	Elementary Education Act Amendment Act, 1877.
57 Vict., No. 16	Elementary Education Act Amendment Act, 1893.
63 Vict., No. 3	Public Education Act, 1899.
No. 6 of 1905	Public Education Amendment Act, 1905.
No. 2 of 1907	Public Education Amendment Act, 1907.
No. 36 of 1912	Elementary Education Act Amendment Act, 1912.
No. 55 of 1919	Public Education Acts Amendment Act, 1919.
No. 27 of 1922	Public Education Acts Amendment Act, 1922.
No. 30 of 1926	Public Education Acts Amendment Act, 1926.

¹ Now Interpretation Act, 1918-1954.

Second Schedule.

Section 31.

EDUCATION ACT, 1928.

Return of Children below the age of Fourteen Years.

No. 33 of 1928, Second Schedule.

No.	Name of each Child in full.	Sex.	Age.	Where under instruction, showing whether at home, or at private or other schools.
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				

I, _____, of _____ certify the above to be a true return concerning all children below the age of fourteen years now residing in this dwelling house.

Dated the _____ day of _____, 19 _____.

(Signature or mark, with witness thereof, of person certifying.)

To _____ residing at _____

TAKE NOTICE that this return will be called for on or after the day of _____, 19 _____, and that any householder neglecting to fill it up by that day, and return it when called for, or wilfully filling it up with an untrue statement, or giving false information to the person leaving the same, is liable, on conviction, to a penalty not exceeding Five pounds, or in default, to one month's imprisonment.

Education.

Section 34.
No. 33 of
1928.
Third
Schedule.

Third Schedule.

WESTERN AUSTRALIA.

EDUCATION ACT, 1928.

Compulsory Form.

Names of all scholars between the ages of six and fourteen who have been absent on any occasion without satisfactory excuse during the month of.....

This Form to be made up and forwarded to the Education Department, Perth, within the first seven days of every month.

Name of Child.	Age and Standard.	Name and full address of parents.	No. of half-days school was opened.	No. of half-days attended.	Reason tendered for absence, if any.	Result of Compulsory Officer's inquiry.

School.....

Date.....

.....
Proprietor [or Headmaster
or Principal Teacher.]

Fourth Schedule.

[Repealed by No. 30 of 1952, s. 16.]