

Approved for reprint 22nd November, 1962.

WESTERN AUSTRALIA.

EDUCATION.

19° Geo. V., No. XXXIII.

No. 33 of 1928.

[Affected by Acts No. 26 of 1932 (Secs. 2 and 6) and No. 38 of 1945 (Sec. 2)]

[As amended by Acts:

- No. 43 of 1929, assented to 31st December, 1929;
- No. 7 of 1930¹, assented to 19th November, 1930;
- No. 30 of 1943, assented to 12th November, 1943;
- No. 30 of 1952², assented to 5th December, 1952;
- No. 44 of 1955, assented to 5th December, 1955;
- No. 72 of 1957, assented to 10th December, 1957;
- No. 57 of 1960³, assented to 2nd December, 1960;
- No. 40 of 1961⁴ assented to 16th November, 1961;
- No. 37 of 1962⁵ assented to 29th October, 1962, and

reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to consolidate and amend the law relating to Public Education, to establish a Government School Teachers' Tribunal and for incidental and other purposes.

Long title.
Amended by
No. 57 of
1960, s. 3.

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, 1928-1962*.

Short title.
Amended by
No. 37 of
1962, s. 1.

¹ Expired 31st December, 1931.

² Came into operation 29th May, 1953. See *Gazette* 29/5/1953, p. 1073.

³ Came into operation 17th April, 1961. See *Gazette* 24/2/1961, p. 475.

⁴ Section 2 of No. 40 of 1961 is deemed to have come into operation on 17th April, 1961. See section 2 (2) of that Act.

⁵ Came into operation 8th November, 1962. See *Gazette* 9/11/62, pp. 3679-3680.

Heading
added by
No. 72 of
1957, s. 2.

Arrangement.
Added by
No. 72 of
1957, s. 2.

Part I.—Introductory Provisions.

1A. This Act is arranged as follows:—

PART I.—INTRODUCTORY PROVISIONS.

PART II.—ADMINISTRATION.

PART III.—SCHOOLS AND OTHER MEANS OF
PUBLIC EDUCATION.

PART IV.—TRAINING OF TEACHERS.

PART V.—ATTENDANCE AT SCHOOLS.

PART VI.—PARENTS AND CITIZENS' ASSOCIA-
TIONS.

PART VII.—REGULATIONS.

PART VIII.—MISCELLANEOUS PROVISIONS.

FIRST SCHEDULE.

SECOND SCHEDULE.

THIRD SCHEDULE.

Repeal
No. 33 of
1928, s. 2.

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 (1) The Acts mentioned in the First Schedule are hereby repealed.

Saving
provisions.

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

- (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
- (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,—

“Welfare Officer” means a person appointed pursuant to section fifteen of this Act by the Minister to secure the attendance of children at school;

“Director-General” means the Director-General of Education.

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

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

Interpretation.
No. 33 of 1928, s. 3.
Amended by
No. 30 of 1943, s. 2.
No. 30 of 1952, s. 3.
No. 72 of 1957, s. 3.
No. 57 of 1960, s. 4.
[See No. 3 of 1899, s. 3.]
No. 37 of 1962, s. 3.

“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.

“leaving Age” in relation to a child means the age of that child at the end of the school year in which he attains the age of fourteen years, or if and as often as a greater age is declared by proclamation made under section three A of this Act, means the age so declared;

“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;

“school Year” in relation to a Government or efficient school means that part of a calendar year from and including the first day in that year on which that school opens for attendance of children to and including the last day in that year that such school is open for that purpose;

“Teacher” includes any person forming part of the educational staff of a school;

“Tribunal” means the Government School Teachers’ Tribunal established under the provisions of section thirty-seven of this Act;

“Union” means The State School Teachers’ Union of Western Australia (Incorporated).

3A. The Minister may recommend from time to time to the Governor that on and from a specified day the leaving age be increased to such age not exceeding fifteen years as the Minister specifies in his recommendation, and thereupon the Governor may by proclamation declare that the leaving age shall be increased on and from that specified day to the age recommended by the Minister.

Leaving age may be increased. Added by No. 37 of 1962, s. 4.

PART II.—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.

Heading amended by No. 72 of 1957, s. 4.
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 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.

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

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.

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

(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.
Amended
by No. 57
of 1960, s. 5.

7. (1) The Governor may—

- (a) subject to the provisions of the Public Service Act, 1904,¹ appoint a Director-General 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 or the Director-General, where the Minister delegates to him the power conferred on the Minister by this subsection may transfer any teacher from one school to another school, or promote any teacher, either on transfer or otherwise, subject to the regulations.

(3) Teachers are not subject to the Public Service Act, 1904,¹ and on and after the coming into operation of the Education Act Amendment Act, 1960, are not subject to the Government Employees (Promotions Appeal Board) Act, 1945² or the Public Service Appeal Board Act, 1920,³ but any appeal commenced under any of those Acts prior to the coming into operation of the Education Act Amendment Act, 1960, shall be heard and determined under the provisions of the Act under which it is made and effect shall be given to any decision made on the appeal as though the Education Act Amendment Act, 1960, had not been passed.

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

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.

(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.

¹ Now Public Service Act, 1904-1956.

² Now Government Employees (Promotions Appeal Board) Act, 1945-1960.

³ Now Public Service Appeal Board Act, 1920-1960.

8. The Director-General 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.
Amended by No. 57 of 1960, s. 6.

PART III.—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.

Heading amended by No. 72 of 1957, s. 5.
Power to establish and maintain schools.
No. 33 of 1928, s. 9.
Amended by No. 57 of 1960, s. 7.

All Government schools for primary, 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 1955, s. 2.
Amended by No. 57 of 1960, s. 8.

- (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
 - (iii) for the purchase of books for school libraries to the extent of one-half of the total cost of the purchase up to

a maximum amount equal to the amount of subsidy which would be granted to the school purchasing the books, if that school were a Government school; and

(iv) for the purchase of pianos to the extent of one-half of the total cost of the purchase of not more than one piano in respect of any one school up to a maximum of one hundred and twenty-five pounds; and

(b) the provision, for the use by school children, of school stationery and of Government publications prepared specially for use in schools.

PART IV.—TRAINING OF TEACHERS.

Heading amended by No. 72 of 1957, s. 6.
Training of teachers.
No. 33 of 1928, s. 10.
Amended by No. 57 of 1960, s. 9.

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, including teachers' colleges for the education of teachers, and make such other provisions as he deems advisable for that purpose.

PART V.—ATTENDANCE AT SCHOOLS.

Heading substituted by No. 72 of 1957, s. 7.
No fees to be charged in elementary schools.
No. 33 of 1928, s. 11.
[See No. 3 of 1899, s. 4.]
Amended by No. 57 of 1960, s. 10.

11. No fees shall be payable for children attending any Government primary 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.]
Amended by No. 57 of 1960, s. 11.

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 a primary school.

(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.

Fees, to whom payable and how recoverable.

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. 72 of 1957, s. 8.

No. 37 of 1962, s. 5.

[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 years of age nor more than leaving 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 years of age nor more than leaving 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 a case a satisfactory means of conveyance shall be deemed to be available within the meaning of paragraphs (d) and (e) of this section.

(2) [*Repealed by No. 72 of 1957, s. 8.*]

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.

(4) Notwithstanding the provisions of subsection (1) of this section, where a child of the age of fourteen years satisfies the Minister that he is

assured of employment and that it is necessary for him to leave school in order to engage in that employment, the Minister may, if in his opinion the employment is suitable for the child and the best interests of the child would be served by his leaving school to engage in that employment, exempt the child from further attendance at school.

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

- (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-General 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, or by a person authorised by the Minister to require production of it.

Reasonable
excuse.
No. 33 of
1928, s. 14.
Amended by
No. 30 of
1943, s. 4.
No. 30 of
1952, s. 7.
No. 72 of
1957, s. 9..
No. 57 of
1960, s. 12.
[No. 3 of
1899, s. 7.]

Welfare officers may accost children in public places.
 No. 33 of 1928, s. 15.
 Amended by No. 30 of 1943, s. 5.
 No. 72 of 1957, s. 10.
 No. 37 of 1962, s. 6.
 [No. 3 of 1899, s. 9.]

15. (1) The Minister may from time to time appoint persons as welfare officers whose duty it shall be to secure the attendance of children at school as 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 who are apparently of school age, and who are apparently not in attendance at school, and to escort any such child to the parent, or to one of the parents, of the child at his home, but if no such parent is then at that home, to escort the child to the school at which he should be in attendance.

(2) Any person who accosts a child in any place referred to in subsection (1) of this section and falsely represents that he is a welfare officer, 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. 72 of 1957, s. 11.
 [No. 3 of 1899, s. 10.]

16. (1) The parent of any child of not less than six years of age nor more than leaving 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 welfare officer or an inspector, or of any other person authorised in that behalf by the Minister, and subject to the provisions of subsection (1a) of this section, 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.

(1a) Where the court is satisfied that the parent has without reasonable excuse neglected to cause the child to attend a Government or other efficient school as required by this Act, the court, if, having regard to the circumstances of the case, it thinks fit to do so, may, instead of imposing a penalty under subsection (1) of this section, refrain from recording a conviction, if the parent gives security in such form as the court approves, to secure regular attendance at school by the child as required by this Act for such period, not extending beyond attainment by the child of leaving age, as the court fixes.

(2) The allegations in the complaint that the complainant is a welfare officer, or a person authorised in that behalf by the Minister, and that a child is not less than six years of age nor more than leaving 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.

Onus of Proof.

(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.

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

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

(5) [*Repealed by No. 72 of 1957, s. 11.*]

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

Employment of children of compulsory age.
No. 33 of 1923, s. 17.
Amended by No. 30 of 1943, s. 7.
No. 72 of 1957, s. 12.
[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 or suffers or allows 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 twenty 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 twenty pounds.

(6) [*Repealed by No. 72 of 1957, s. 12.*]

Truancy.

**Cf. s. 18
as to
constant
and
habitual
absence.
Added by
No. 72 of
1957, s. 13.**

**Amended by
No. 37 of
1962, s. 7.**

17A. (1) A child who, without a reason which is deemed a reasonable excuse under section fourteen of this Act, absents himself, although not constantly and habitually, from school when he should be attending school as required by this Act, commits the offence of truancy.

(2) On complaint made by a welfare officer, or by an inspector, or by any other person authorised by the Minister to make complaints of offences against this Act, that a child has committed the offence of truancy, the child may be summoned before a children's court under the Child Welfare Act, 1947,¹ to be charged with the offence, and the parent of the child may be summoned to attend with the child before the court.

(3) If the court is satisfied that the charge is proved, the court

(a) may record a conviction and may release the child on probation for such period, not extending beyond the attainment by the child of leaving age, as the court fixes, on such conditions as the court imposes, and in any event on condition that during the period of probation fixed by the court the child shall attend school as required by this

¹ Now Child Welfare Act, 1947-1962.

Act; in which case the child shall be subject to the supervision of the Education Department, during the period of probation fixed by the court; or

- (b) if, having regard to the circumstances of the case it thinks fit to do so, the court may refrain from recording a conviction if the parent gives security in such form as the court approves, to secure regular attendance at school by the child as required by this Act for such period, not extending beyond the attainment by the child of leaving age, as the court fixes.

17B. (1) If the conditions of probation upon which a child is released under section seventeen A of this Act are not observed by that child or the person or persons responsible for him, or if the Director-General is not satisfied with the conduct of that child or those persons whilst the child is released on probation, the Director-General may, with the consent in writing of the Minister, cause the child to be summoned before a children's court under the Child Welfare Act, 1947.¹

When child released on probation may be committed to care of Child Welfare Department. Added by No. 37 of 1962, s. 8.

(2) If the court is satisfied that the conditions of probation upon which the child was released have not been observed by the child or the person or persons responsible for him, or that the conduct of that child or those persons whilst he is released on probation has been such as not to warrant continuance of the release on probation, the court may order that the child be no longer released on probation and that he be committed to the care of the Child Welfare Department until he attains leaving age, or during such shorter period as the court may think sufficient.

¹ Now Child Welfare Act, 1947-1962.

Habitual truants.
No. 33 of 1928, s. 18.
Amended by No. 30 of 1943, s. 8.
No. 72 of 1957, s. 14.
No. 37 of 1962, s. 9.
[No. 3 of 1899, s. 13.
Child Welfare Act, 1907-27, s. 42¹.]

18. (1) If a child is constantly and habitually absent from school without a reason which is deemed a reasonable excuse under section fourteen of this Act, the parent of such child may be summoned on the complaint of a welfare 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, 1947,¹ to show cause why such child should not be committed to the care of the Child Welfare Department under that 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 committed to the care of the Child Welfare Department 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 committed to the care of the Child Welfare Department for such period, not extending beyond the attainment by the child of leaving age as the court fixes.

(4) [*Repealed by No. 72 of 1957, s. 14.*]

Incorrigible children.

(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.

(6) [*Repealed by No. 72 of 1957, s. 14.*]

Parent summoned to produce child to court.
No. 33 of 1928, s. 19.
Amended by No. 72 of

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 welfare officer or other person authorised in that behalf.

Penalty: Ten shillings.

¹ See now Child Welfare Act, 1947-1962.

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

- (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.

Blind, deaf, mute, cerebrally palsied and mentally defective children.
 No. 33 of 1928.
 Amended by No. 30 of 1952, s. 9.
 No. 72 of 1957, s. 16.
 No. 57 of 1960, s. 13.
 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) institution as the Minister directs, and shall pay such periodical sum or sums towards the cost of the education or maintenance and education thereof of the child as is or are agreed between such parent and the Minister.

Instructions for such children.

(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 two pounds ten 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.

Maintenance.

Proceedings
on failure
to provide
education.

(4) If such parent—

(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.

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

(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 to a penalty of not less than one pound and not more than five pounds.

When child
committed
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.

(7a) Where under this section a child is committed by the court to an institution, the order of committal, or a copy of the order of committal certified by the clerk of the court to be a copy of the order, is valid and sufficient authority

- (a) for a member of the Police Force, or for a welfare officer, to take charge of the child to whom the order relates and to deliver him to the person in charge of the institution named in the order; and
- (b) for the person in charge of the institution to receive the child into, and to detain the child in, the institution in accordance with the order.

(7b) (a) Where under paragraph (b) of subsection (5) of this section a child has been committed to an institution and has been detained in the institution for not less than two months, the Minister, or the Director-General may issue a Certificate of Conditional Release, authorising the person in charge of the institution to release the child from detention in the institution, and to give custody of the child to the person named in the certificate, and authorising the latter person to take and have custody of the child on such conditions as are specified in the certificate, including a condition that the latter person shall cause the child to attend the institution or a school named in the certificate regularly.

(b) A Certificate of Conditional Release so issued, or a copy certified by the Director-General to be a copy of a Certificate of Conditional Release so issued, has effect according to its tenor, and is valid and sufficient authority for the person in charge of the institution to release the child from detention in the institution, and to give custody of the child to the person named in the certificate, and for the latter person to take and have custody of the child on the conditions specified in the certificate.

(c) If the person to whom the custody of the child is granted by the certificate does not observe any of the conditions imposed by the certificate to the satis-

faction of the Minister or of the Director-General, the Minister or the Director-General may issue an Order of Cancellation of the certificate.

(d) An Order of Cancellation so issued revives the order of committal mentioned in subsection (7a) of this section, and the Order of Cancellation, or a copy certified by the Director-General to be a copy of the Order of Cancellation, is of the same validity and authority for a member of the Police Force, welfare officer, or person in charge of an institution to do any of the things mentioned in subsection (7a) of this section, as the order of committal or a copy of the order of committal.

Removal
to another
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.

Cost of
maintenance
at
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.

Variation of
maintenance
order.

(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—

(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 two pounds ten shillings per week.

(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.

Notice of application for maintenance.

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

Evidence.

- (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.

(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, 1947-1950.¹

Meaning of "Institution" and "Court."

¹ Now Child Welfare Act, 1947-1962.

Added by
No. 30 of
1952, s. 9

(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.

Minister
may refuse
admission to
Government
school in
certain cases.

No. 33 of
1928, s. 21.
[No. 3 of
1899, s. 14.]

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.

Power to
appoint
persons
to make
complaints
of, and
prosecute,
offences.

Added by
No. 72 of
1957, s. 17.

21A. (1) The Minister may appoint and authorise such persons as he thinks fit to make complaints, and conduct prosecutions, of offences alleged against any of the provisions of this Part.

(2) Production by a person named in it, of a written appointment and authorisation purporting to have been made and signed by the Minister pursuant to subsection (1) of this section, is *prima facie* evidence that the person is duly appointed and authorised under that subsection to make complaints, and conduct prosecutions, of offences alleged against any of the provisions of this Part.

Heading
amended by
No. 72 of
1957, s. 18.

PART VI.—PARENTS AND CITIZENS' ASSOCIATIONS.

Parents and
Citizens'
Associations.

No. 33 of
1928, s. 22.
Amended by
No. 57 of
1960, s. 14.
[No. 27 of
1922, s. 2.]

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

(2) An association desirous of doing so may affiliate with the body known as The Western Australian Federation of Parents and Citizens' Associations upon such terms and conditions as shall from time to time be determined by that body.

23. The objects of an association shall be to promote the interests of the Government school or group of Government schools in relation to which it is formed, by endeavouring to bring about closer co-operation between the parents or guardians of the pupils attending the school or the group, other citizens, the teachers at the school or the group, and those pupils and generally to endeavour to foster community interest in educational matters.

Objects of an Association. Substituted by No. 57 of 1960, s. 15.

24. [*Repealed by No. 57 of 1960, s. 16.*]

25. [*Repealed by No. 57 of 1960, s. 17.*]

26. (1) An association shall expend or invest all amounts received by it that are in excess of expenditure for the benefit of the children who are attending the Government school or the group of Government schools in relation to which the association is formed.

Profit of association to be used for benefit of children attending Government schools. Substituted by No. 57 of 1960, s. 18.

(2) All property of whatsoever estate, interest or kind purchased by an association for the use of a Government school whether purchased with or without any financial assistance from the Minister or the Education Department shall by force of this section be vested in the Minister for the purposes of this Act.

27. An association 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. Amended by No. 57 of 1960, s. 19. [No. 27 of 1922, s. 7.]

PART VII.—REGULATIONS.

Heading amended by No. 72 of 1957, s. 19.

Regulations. No. 33 of 1928, s. 28.

Amended by No. 30 of 1943, s. 9.
No. 30 of 1952, s. 10.
No. 57 of 1960, s. 20.

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

- (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, certification, classification, appointment, promotion, transfer, dismissal, resignation, leave of absence, discipline, and duties of teachers.
- (d1) Prescribing grounds, including such moral grounds, whether connected with the employment and functions of teachers or not, as the Minister thinks fit, which for the purposes of this Act amount to misconduct and for which a teacher may be dismissed from the Education Department.
- (e) [*Deleted by No. 57 of 1960, s. 20.*]
- (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 boarding allowances, 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) [*Deleted by No. 57 of 1960, s. 20.*]
- (n) The management of the teachers' colleges and other similar institutions, the appointment, and duties of the teaching staff, lecturers and other employees, and the admission, training, examination and attendance of students.
- (o) The constitution of parents and citizens' associations and for all such other matters as may be deemed necessary to give effect to sections twenty-two to twenty-seven of this Act.
- (p) The prescribing of registers and records to be kept, returns to be made, and forms to be used.
- (p1) 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.

(2) (a) Subject to the provisions of section thirty-seven AÆ of this Act the Minister shall determine the salaries and allowances payable under this Act to teachers.

(b) The Minister shall publish or cause to be published in the *Government Gazette* a copy of the salaries and allowances as so determined as soon as practicable after he has made his determination.

(2a) The Minister shall determine the salaries and allowances payable under this Act to teachers as provided in subsection (2) of this section, at least once in every five years.

(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.*]

Heading amended by No. 72 of 1957, s. 20.

Religious instruction may be given. No. 33 of 1928, s. 29., Amended by No. 57 of 1960, s. 21. [No. 16 of 1893, ss. 18-21.]

PART VIII.—MISCELLANEOUS PROVISIONS.

29. (1) In every Government primary and secondary 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-General 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.

(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.

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

(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.

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

Objections to religious instruction.

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.

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.]

(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.

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

Second
Schedule.

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.

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.

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.

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

(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*.

List of efficient schools to be published.

(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.

Removal of schools from list of efficient schools.

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.

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

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.

(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.

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. 72 of
1957, s. 21.
[No. 3 of
1899, s. 17.]

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 Education, welfare 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, welfare 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, welfare officer, or other person duly authorised by the Minister, to inspect and make copies from the said register.

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

Proprietors of private schools to make monthly and quarterly return of attendances.

- (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 age of six years and leaving age 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 term, such statistical information as may be prescribed;
- (c) for the purposes of this section "primary school" means any school which has not been placed on the list of secondary schools of the Education Department.

No. 33 of 1923, s. 34.
Amended by No. 30 of 1943, s. 10, No. 30 of 1952, s. 15.
No. 72 of 1957, s. 22.
No. 57 of 1960, s. 22.
[No. 6 of 1905, s. 4, No. 30 of 1926, s. 4.]

(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) [*Repealed by No. 72 of 1957, s. 22.*]

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, No. 57 of 1960, s. 23.

(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-General—

- (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-General, and shall furnish therewith the prescribed particulars and such other particulars as the Director-General 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.

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.

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

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) For the purposes of this Act, there shall be constituted under and in accordance with the provisions of this Act a Tribunal to be called the Government School Teachers' Tribunal having the duties imposed and the powers conferred by this Act.

Establishment of Government School Teachers' Tribunal.
Substituted by No. 57 of 1960, s. 24.

Constitution
of Tribunal.

(2) The Tribunal shall consist of three members who shall be appointed by the Governor.

(3) Of the three members—

- (a) one shall be chairman;
- (b) one shall be a nominee member; and
- (c) one shall be an elected member.

Qualifica-
tions of
chairman.

(4) A person is not eligible for appointment to the office of chairman unless he is a practitioner as defined by the Legal Practitioners Act, 1893,¹ of not less than seven years' practice and standing.

Term of
office of
chairman.

(5) The chairman—

- (a) is, subject to the provisions of this Act, entitled to hold office for a term of seven years from the date of his appointment as chairman, but upon expiration of any term of appointment is eligible for re-appointment;
- (b) is entitled to such remuneration and allowances as the Governor determines, and is hereby authorised to determine, from time to time.

Remunera-
tion of
chairman.

Nominee
member.

(6) The nominee member shall be a person nominated by the Minister to be and act as the representative of the Minister.

Elected
member.

(7) The elected member shall be a member of the Union elected in prescribed manner by the members of the Union to be and act as the representative of those members.

Tenure of
office of
nominee and
elected
members.

(8) Subject to the provisions of this Act a person appointed as nominee member or elected member shall be appointed to hold office for a term of three years from the date of appointment, but upon expiration of any term of appointment is, subject to the provisions of this Act, eligible for re-appointment.

¹ Now Legal Practitioners Act, 1893-1960.

(9) Subject to the provisions of this Act the office of a member including the chairman shall become vacant if the member—

Vacancy in office of member.

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent from his duties for a period of thirty days or longer without the consent of the Minister;
- (c) becomes permanently incapable of performing his duties;
- (d) dies, or resigns his office by written notice under his hand sent to the Governor and the resignation is accepted by the Governor;
- (e) in the case of the chairman, he attains the age of seventy years, and, in the case of the nominee member or elected member, he attains the age of sixty-five years;
- (f) becomes a person who would not be qualified to be appointed a member;
- (g) is removed from office on the ground of misbehaviour or incapacity.

37AA. (1) Where by the operation of the provisions of subsection (9) of section thirty-seven of this Act an office of member of the Tribunal becomes vacant, the vacancy shall be deemed to be an extraordinary vacancy.

Filling of vacancies in membership. Added by No. 57 of 1969, s. 25.

(2) On the occurrence of any vacancy in any office of member of the Tribunal, a qualified person shall, in accordance with the provisions of this Act, be appointed by the Governor to fill the vacancy, and any person appointed to fill an extraordinary vacancy holds office, subject to those provisions, for the remainder of the term of office of the person in whose place he is appointed.

Deputies.
Added by
No. 57 of
1960, s. 25

37AB. (1) The Governor may appoint a person, who has the requisite qualifications, as deputy to act in the office of chairman of the Tribunal in the absence of the occupant of that office.

(2) Persons nominated or elected in accordance with the provisions of subsection (6) or subsection (7) of section thirty-seven of this Act as the case requires may be appointed by the Governor as deputies to act in the respective offices of the nominee member or elected member in the absence of the occupants of those offices.

(3) The provisions of subsection (9) of section thirty-seven of this Act apply in respect to deputies for members as though they were members and not deputies.

(4) Any person so appointed a deputy is entitled in the event of the absence from a meeting or sitting of the Tribunal of the member for whom he is the deputy, to attend that meeting or sitting and when so attending shall be deemed to be a member of the Tribunal and is authorised to carry out any function which the member for whom he is the deputy, if present, could exercise or would be required to carry out under this Act.

Vacancy in
membership
not to
invalidate
acts of
Tribunal.

(5) The exercise of a power or the performance of a function by the Tribunal is not invalidated by reason only of there being a vacancy in the membership of the Tribunal.

Defect in
nomination
or election
of member
not to
invalidate
appointment.

(6) The appointment of a member is not invalidated and shall not be called in question by reason of a defect or irregularity in or in connection with his nomination or election as the case may be.

Retirement.
Added by
No. 57 of
1960, s. 25.

37AC. (1) The member who is the chairman of the Tribunal shall retire on the day on which he attains the age of seventy years and the nominee member and the elected member of the Tribunal shall retire on the day on which that member attains the age of sixty-five years unless the

Governor directs in the case of any nominee or elected member that he shall be at liberty to continue in office at the Governor's pleasure during the expiration of the unexpired period of the term for which he was nominated or elected or a period of twelve months after he attains the age of sixty-five years, whichever is the less.

(2) Any member of the Tribunal who ceases to hold office by virtue of this section may nevertheless complete any matter which the Tribunal of which he was sitting as a member had entered upon and had not completed before the member has attained the age on which he is due to retire.

37AD. No member of the Tribunal shall engage in any business or occupation for remuneration other than that of his office on the Tribunal, without the consent of the Minister.

Prohibition of other employment.
Added by No. 57 of 1960, s. 25.

37AE. (1) Subject to the provisions of this Act, the Tribunal has jurisdiction to examine into, hear and determine the matters set forth in this section, and the action or decision of the Tribunal thereon is final and conclusive.

Jurisdiction of Tribunal.
Added by No. 57 of 1960, s. 25.
Amended by No. 37 of 1962, s. 10.

(2) Nothing in subsection (1) of this section shall prevent the Tribunal from reconsidering any matter that has been dealt with by it, or from rescinding, altering, or amending, any decision or order previously made, all of which the Tribunal has authority to do.

(3) The Tribunal has jurisdiction—

- (a) to hear and determine any appeal by a teacher or the Union against the salary and allowances of any teacher or class of teachers as determined by the Minister under subsection (2) of section twenty-eight of this Act;
- (b) to hear and determine any matter in dispute relating to the salaries and allowances of teachers and the allowances of

students or a group of students attending a course of training at a teachers' college which, after negotiation between the Minister and that Union, is unresolved and which is referred to the Tribunal on the joint application of the Minister and the Union;

- (c) to hear any application by the Union for a review of the salary and allowances of teachers and to make a recommendation to the Minister after hearing and considering the application;
- (d) where a vacancy in, or a new office created in the Education Department has been filled after it has been advertised in accordance with and as required by the regulations by the promotion of a teacher who has been recommended by the Director-General for the vacancy or new office, to hear and determine any appeal against that recommendation by a teacher who applied for appointment to or employment in the vacancy or new office and who has not been recommended therefor;
- (e) to hear and determine an appeal of a teacher against an assessment of efficiency of the teacher given by a Superintendent of Education under and in accordance with the regulations, where the Director-General has refused a written request by the teacher for a reconsideration of the assessment and the issue of a further assessment, or where, after such reconsideration and issue of a further assessment, the teacher is dissatisfied with the procedure used by, or the method adopted by, the Superintendent when making the further assessment;
- (f) to hear and determine an appeal by a teacher or by the Union against, or a matter referred to it by the Minister concerning, any decision involving the interpretation or application of any Act or regulation governing the service of the teacher or group of teachers;

- (g) with respect to the allowances payable under the regulations to teachers teaching in Government schools situated in prescribed districts and in remote areas of the State as graded in accordance with the regulations, to travelling and transfer allowances payable to teachers and to allowances payable to teachers where a teacher is relieving another teacher—
- (i) to hear and determine an appeal by the Union against the determination of the Minister in respect of any such allowances in a particular or general case;
 - (ii) to order on the application of the Minister or the Union that any agreement between the Minister and the Union in relation to any such allowances be confirmed and determine any matter in dispute relating to any such allowances, which after negotiation between the Minister and the Union is unresolved, and which is referred to the Tribunal on the joint application of the Minister and the Union;
 - (iii) to hear and determine an appeal by a teacher against any decision involving the interpretation or application of the regulations with respect of any such allowances that are payable to him;
- (h) to hear and determine any appeal by a teacher who, for alleged misconduct, gross inefficiency or breach of the regulations, is—
- (i) fined any amount in excess of two pounds;
 - (ii) transferred at his own expense;
 - (iii) reduced to a lower class or grade;

- (iv) reduced from any position to a position carrying a lower salary; or
 - (v) suspended or dismissed,
- against any such penalty or punishment;
- (i) to hear and determine an appeal by a student enrolled in a teachers' college whose course of training thereat has been terminated by the Minister, against the termination and to determine the terms and conditions on which the course of training shall be terminated;
 - (j) to hear and determine an appeal by a teacher against the amount of rent payable by him to the Education Department pursuant to the regulations in respect of quarters provided for him that were completed and ready for occupation prior to the first day of January, one thousand nine hundred and forty-six, which has resulted from a valuation or revaluation of those quarters made pursuant to those regulations;
 - (k) to hear and determine, or determine, such other matters as may be prescribed.

37AF. (1) Subject to the provisions of subsection (3) of this section, any teacher or any student enrolled in a teachers' college, or the Union on behalf of any teacher or group of teachers, or on behalf of any such student or group of such students, may, in the prescribed manner and within the prescribed time, appeal or make application to the Tribunal in respect of any matter within the jurisdiction of the Tribunal that affects that teacher or that group of teachers, or that affects that student or that group of students.

Minister,
teacher or
Union
empowered
to invoke
Jurisdiction
of Tribunal.
Added by
No. 57 of
1960, s. 25.
Amended by
No. 40 of
1961, s. 2.
No. 67 of
1962, s. 11.

(2) The Minister, or the Minister and the Union jointly, may, in manner and within the time prescribed, refer to the Tribunal for determination any matter within its jurisdiction.

(3) (a) Where an appeal is made to the Tribunal pursuant to the power conferred on the Tribunal by paragraph (d) of subsection (3) of section thirty-seven AE of this Act, the appeal may be made on the ground of—

- (i) superior efficiency to that of the teacher promoted; or
- (ii) equal efficiency and seniority to the teacher promoted.

(b) For the purposes of this subsection—

- (i) “seniority” means, as between teachers, seniority by longer period of service as a teacher with the Education Department which service includes service as a monitor and as a student in a teachers’ college and as a science teacher exhibitor at the University of Western Australia; but where the whole of that service of a teacher has not been continuous, his service for the purpose of determining his seniority, shall be calculated only as from the day on which he was last appointed as teacher in the Department and from which his service has been continuous; and
- (ii) “efficiency” has the same meaning as it has in Part XIV of the regulations.

37AG. The Minister may, with the approval of the Public Service Commissioner, appoint a person who is subject to the provisions of the Public Service Act, 1904,¹ to be secretary to the Tribunal, and the remuneration and allowances of the secretary shall be such as the Minister determines.

Secretary to Tribunal.
Added by No. 57 of 1960, s. 25.

37AH. (1) The Tribunal shall meet for the despatch of business as often as is required, and as soon as is practicable after an appeal or application is lodged with it the Tribunal shall fix the earliest convenient time for the hearing of the appeal or application.

Meetings of Tribunal and records of proceedings.
Added by No. 57 of 1960, s. 25.

¹ Now Public Service Act, 1904-1956.

(2) The Tribunal shall keep a record of its proceedings and its decisions thereon, which shall be available for future reference to any party to an appeal or an application to the Tribunal.

Majority decision is decision of the Tribunal.

(3) The jurisdiction of the Tribunal shall be exercised by the three members of the Tribunal sitting together, but if all the members are not unanimous upon any appeal, application or matter before the Tribunal, the decision of the majority of those members shall prevail and shall be deemed to be the decision of the Tribunal.

Decision to be reported.

(4) The decision of the Tribunal shall in each case be reported in writing by the Tribunal to the Governor and the Minister and effect shall be given to the decision according to its tenor.

Tribunal empowered to impose penalty for frivolous appeals.

(5) (a) Where, at any stage of the hearing of an appeal, the Tribunal is of the opinion that the appeal is frivolous, unreasonable or vexatious, the Tribunal may decline to hear it further and may thereupon dismiss it and may fine the appellant a sum not exceeding ten pounds.

(b) The amount of any such fine may be recovered from the appellant by the Treasurer in any court of competent jurisdiction as a debt due by the appellant to the Crown.

Expenses of successful appellant.

(6) Where the Tribunal has heard an appeal pursuant to the jurisdiction conferred on it by the provisions of paragraph (d) of subsection (3) of section thirty-seven AE of this Act, the Tribunal on completion of the hearing may, in writing signed by the chairman of the Tribunal, recommend the payment to the appellant or the respondent or both of an amount in respect of the expenses necessarily incurred by the appellant or the respondent in travelling to the place where the appeal was heard and for his board and lodging whilst attending the appeal.

(7) The Tribunal shall present the recommendation to the Governor or cause it to be so presented, and if the Governor approves of the recommendation

the Minister shall pay the amount of expenses referred to therein to the appellant out of the moneys appropriated by Parliament for the purposes of this Act.

37A1. (1) The Tribunal—

Procedure of
Tribunal.
Added by
No. 57 of
1960, s. 25.

- (a) may, subject to the regulations, regulate all matters in respect of its own procedure;
- (b) may, in hearing and determining any appeal, application or matter under this Act, conduct its inquiries without regard to legal form, and shall direct itself by the best evidence it can procure or that is laid before it; and
- (c) may, where any witness is resident more than thirty miles from the place where the Tribunal is sitting, take the evidence of the witness by affidavit, but, if the Tribunal thinks just cause exists for doing so, may summon the person making the affidavit to attend before it as a witness for further examination or cross-examination;
- (d) has in relation to appeals under this Act all the powers of a Royal Commission under the Royal Commissioners' Powers Act, 1902, and any reference to the chairman of a Royal Commission under that Act shall, in relation to such appeals, be deemed to be a reference to the chairman of the Tribunal;
- (e) may, with respect to any other matter before it for hearing and determination, or determination, summon and examine witnesses on oath, and call for the production of papers and documents relevant to the matter;
- (f) may confirm, modify or reverse any decision, determination or finding appealed against or determine any matter referred to it for determination;

(g) may fix the costs of any appeal made to it pursuant to the jurisdiction conferred on the Tribunal by the provisions of paragraph (h) of subsection (3) of section thirty-seven AE of this Act, and direct by whom and in what manner the costs shall be paid.

Hearing of
appeals, etc.
and repre-
sentation.

(2) The Tribunal shall hear all appeals, applications or other matters which come before it in public except where the Tribunal directs that any such appeal, application or other matter shall be heard in private.

(3) Upon the hearing by the Tribunal of any appeal, application or matter under and in accordance with this Act any party to such appeal, application or matter has the right to appear and be heard in person by the Tribunal or to be represented by an agent, but no legal practitioner within the meaning of the Legal Practitioners Act, 1893,¹ shall appear on behalf of any such party unless in any particular case the Tribunal grants permission in accordance with this section for him to do so.

(4) Where a party to any such appeal, application or matter requests permission to be represented by a legal practitioner, he shall make written application in that behalf to the Tribunal at the same time as he lodges his notice of appeal or application or when the matter is referred to the Tribunal, and as soon as practicable thereafter he shall serve a copy of the application on every other party to the appeal, application or matter.

(5) Where permission is so granted by the Tribunal each party to the appeal, application or matter shall be entitled to be represented by a legal practitioner.

(6) At the hearing such parties are entitled to give evidence before the Tribunal and, with the approval of the Tribunal, to summon witnesses in the same manner and subject to the same penalties and conditions as witnesses may be summoned to give evidence before justices in petty sessions, and to have all witnesses examined on oath or affirmation.

¹ Now Legal Practitioners Act, 1893-1960.

37AJ. (1) Any costs awarded by the Tribunal pursuant to paragraph (g) of section thirty-seven AI of this Act against any party to an appeal made to the Tribunal under the provisions of this Act, other than the Minister, shall be recoverable by the Treasurer in a court of competent jurisdiction as a debt due to the Crown.

Recovery of costs.
Added by No. 57 of 1960, s. 25.

(2) Any costs awarded to an appellant or applicant, other than the Minister, shall be paid by the Education Department out of the moneys appropriated by Parliament for the administration of this Act.

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 a 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.
Amended by No. 57 of 1960, s. 26.

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—

- (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;

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.

- (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.

Jurisdiction
and powers
of children's
courts.
Added by
No. 72 of
1957, s. 23.
Cf. e.g.
s. 16 (1a)
and s. 17A
(3) (b)
of this Act.

40. (1) Where this Act requires any matter to be heard and determined by a children's court or confers any jurisdiction, power, or authority on a children's court, a children's court constituted under the Child Welfare Act, 1947,² may, in respect of the matter, jurisdiction, power, or authority, exercise, without prejudice to any of the provisions of that Act, any jurisdiction, power, or authority, conferred upon it by that Act.

¹ Now Interpretation Act, 1918-1962.

² Now Child Welfare Act, 1947-1962.

(2) Without prejudice to the generality of subsection (1) of this section, a children's court may exercise in respect of any security given under section sixteen or under section seventeen A of this Act, the powers conferred by section eighty of the Child Welfare Act, 1947,¹ on the court in respect of any security mentioned in section eighty of that Act.

Of Child Welfare Act, 1947-1956, Reprint 7th May, 1957, s. 20 (c) and s. 80.

FIRST SCHEDULE.

No. 33 of 1928, 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.

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				

¹ Now Child Welfare Act, 1947-1962.

Education.

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.

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.]