

Approved for reprint 22nd January, 1970.

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;
No. 26 of 1964, assented to 4th November, 1964;
No. 17 of 1965, assented to 1st October, 1965;
No. 61 of 1965, assented to 19th November, 1965;
No. 37 of 1966, assented to 31st October, 1966;
No. 12 of 1967, assented to 20th October, 1967;
No. 48 of 1967⁶, assented to 24th November, 1967;
No. 23 of 1968⁷, assented to 16th October, 1968;
No. 91 of 1969, assented to 17th November, 1969;

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.

[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 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,*
1928-1969.

Short title.
Amended by
No. 91 of
1969, 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.

⁶ Came into operation 1st January, 1968.

⁷ Came into operation 1st January, 1969.

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

Arrange-
ment.

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

Amended by
No. 91 of
1969, 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 VA.—BOARD OF SECONDARY EDUCATION.

PART VI.—PARENTS AND CITIZENS' ASSOCIATIONS.

PART VII.—REGULATIONS.

PART VIII.—MISCELLANEOUS PROVISIONS.

FIRST SCHEDULE.

SECOND SCHEDULE.

THIRD SCHEDULE.

Repeal.

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;

“Board” means the Board of Secondary Education constituted under Part VA of this Act;

“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.
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;
No. 37 of
1962, s. 3;
No. 26 of
1964, s. 2;
No. 91 of
1969, s. 3.
[See No. 3
of 1899, 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, but on and after the first day of January, nineteen hundred and sixty-six, shall mean the age applicable in respect of the child under the provisions of section thirteen A of this Act;

“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).

(2) [*Repealed by No. 37 of 1962, s. 3.*]

3A. [*Added by No. 37 of 1962, s. 4. Repealed by No. 26 of 1964, s. 3.*]

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. 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. [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. [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.

7. (1) The Governor may—

(a) subject to the provisions of the Public Service Act, 1904, 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.

Appointment of officers. Substituted by No. 30 of 1952, s. 4. Amended by No. 57 of 1960, s. 5.

(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, 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, 1945 or the Public Service Appeal Board Act, 1920, 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.

Director of Education. Amended by No. 57 of 1960, s. 6; No. 81 of 1969, s. 4.

8. The Director-General shall be the permanent head of the Department, and subject to the Minister, shall be responsible for the administration of the provisions of this Act, other than the provisions of Part VA.

Heading amended by No. 72 of 1957, s. 5.

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

Power to establish and maintain schools. Amended by No. 57 of 1960, s. 7.

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.

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;
No. 26 of 1964, s. 4;
No. 17 of 1965, s. 2;
No. 23 of 1968, s. 3.

- (a) subsidising efficient schools for the purpose of enabling those schools to purchase any equipment, instruments, appliances and things, of the kind or class in respect of which when purchased for a Government school the Minister pays portion of the purchase price, or to provide and construct swimming pools (but not including any assistance in the construction of buildings except as provided by this Act, or the effecting of improvements to school grounds), to an amount in each case equivalent to but not exceeding the amount that would be paid by the Minister if that purchase, or as the case may be, that swimming pool, were for a Government school;
- (b) the provision, for the use by school children, of school stationery and of Government publications prepared specially for use in schools;
- (c) the issue, for use in efficient primary schools, of such school supplies as are from time to time prescribed; and

- (d) the provision, for use in efficient schools by school children in the fourth or fifth year of a course of secondary education, of reference books pertaining to courses of study leading to matriculation.

Tuition fees at efficient schools to be subsidised.
 Added by No. 17 of 1965, s. 3.
 Substituted by No. 48 of 1967, s. 3.
 Amended by No. 23 of 1968, s. 4.

9B. (1) The Treasurer of the State shall in every year place at the disposal of the Minister, in addition to the moneys referred to in section nine A of this Act, such moneys as will enable the Minister to pay to every efficient school at which fees are payable for the tuition of its scholars, the amounts specified in subsection (2) of this section in respect of the scholars specified in subsection (3) of this section.

(2) For the purposes of subsection (1) of this section, the amounts payable are—

- (a) in the case of a scholar who is in any year of a course of primary education, twenty dollars per annum;
- (b) in the case of a scholar who is in the first, second or third year of a course of secondary education, thirty dollars per annum; and
- (c) in the case of a scholar who is in the fourth or fifth year of a course of secondary education, thirty-six dollars per annum,

and those amounts shall, in every year, be paid to efficient schools at such times, in such manner and subject to such conditions as the Minister determines by regulations made by him under this Act.

(3) For the purposes of subsection (1) of this section, amounts are payable under this section to an efficient school in respect of every scholar—

- (a) who is engaged in a course of primary or secondary education at that school;
- (b) who has attained, or will attain during the year for which payment under this section is sought, the age of six years;

- (c) who has not attained the age of nineteen years; and
- (d) who, being a resident of the State, has a parent or guardian also a resident of the State, or who, being a resident of the State but not having a parent or guardian so resident, is determined by the Minister to be a scholar for the purposes of this subsection.

9C. Where an efficient school borrows, or has since the first day of January, nineteen hundred and sixty-five borrowed, money for the purpose of constructing residential accommodation for scholars who attend that school, or for the purpose of converting any existing property of that school or acquiring any property for conversion by that school into residential accommodation for those scholars, the Minister may reimburse that school such proportion of the interest paid by it on the money so borrowed as does not exceed such rate as the Treasurer of the State determines and is hereby authorised to determine from time to time, on the amount of that money for the time being remaining unpaid, subject to the principal sum of the money so borrowed being reduced annually by such sum as the Treasurer may from time to time require; and the Treasurer shall in every year place at the disposal of the Minister such moneys as are necessary for the purposes of this section.

Subsidisation of proportion of interest on certain loans raised by efficient schools. Added by No. 17 of 1965, s. 3.

9D. (1) The Treasurer of the State shall in every year, place at the disposal of the Minister such moneys as will enable the Minister to pay to such scholars at efficient schools as are specified in subsection (2) of this section, the amounts specified in that subsection in respect of those scholars, for the purpose of assisting those scholars in the purchase of text books required by those scholars for their studies at those efficient schools.

Subsidisation of cost of text books at efficient schools. Added by No. 23 of 1968, s. 5.

(2) For the purposes of subsection (1) of this section, the amounts payable are—

- (a) in the case of a scholar who is in the first, second or third year of a course of secondary education, five dollars per annum; and
- (b) in the case of a scholar who is in the fourth or fifth year of a course of secondary education, ten dollars per annum,

and those amounts shall, in every year, be paid at such times and in such manner as the Minister directs but subject to such conditions as are prescribed.

PART IV.—TRAINING OF TEACHERS.

Heading amended by No. 72 of 1957, s. 6.
Training of teachers.
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.

Amended by No. 57 of 1960, s. 10.
[See No. 3 of 1899, s. 4.]

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

Scale of fees after 14.

Affected by No. 26 of 1932, s. 2.
Amended by No. 57 of 1960, s. 11.
[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 a primary school.

Fees, to whom payable 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.
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. 26 of 1964, s. 5.
No. 37 of 1966, s. 2;
No. 12 of 1967, s. 2;
No. 23 of 1968, 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 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.*]

(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.

(3a) Without affecting the provisions of subsection (3) of this section, where—

(a) the place of residence of a child of not less than six years of age nor more than the leaving age, is so situated that the provisions of subsection (1) of this section do not require his parent to cause him to attend any Government or efficient school;

- (b) the child does not attend a Government or efficient school; and
- (c) the Minister is of opinion that the child is not receiving regular and efficient instruction,

the Minister may, by notice in writing served on the parent, require the parent to cause the child to attend a Government or efficient school on such days as the school is open.

(3b) A notice served under subsection (3a) of this section continues to have effect until it is revoked by subsequent notice served on the parent, or the child attains leaving age, whichever first occurs.

(4) Notwithstanding the provisions of subsection (1) of this section, the Minister may exempt a child who has attained the age of fourteen years from further attendance at school—

- (a) if the child 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, and the Minister is of opinion that 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; or
- (b) if the child has successfully completed three years of secondary education in Western Australia or a course of education that the Minister considers is of an equivalent or higher standard, and satisfies the Minister that he desires to leave school in order to undertake full-time education in a vocational course other than at a Government school or an efficient school,

but the exemption in respect of paragraph (b) of this subsection shall apply only while the child continues to receive such full-time education in a vocational course as is referred to in that paragraph.

(5) Notwithstanding the provisions of subsection (1) of this section, where—

- (a) a child wishes to be exempted from attendance at school for a period during which he intends to engage in employment of a nature that is related to his education at the school that he attends; and
- (b) the principal of that school is satisfied that the engaging by the child in that employment for the proposed period would be in the best interests of the education of the child,

the Minister may exempt the child from attendance at school for such period as is specified in the instrument of exemption.

(6) Any exemption granted pursuant to subsection (5) of this section may, notwithstanding that the period specified therein has not expired, be revoked at any time by the Minister, and unless so revoked expires—

- (a) upon the expiration of the period specified; or
- (b) when the employment with respect to which it was granted comes to an end,

whichever first occurs.

Leaving age
after 1st
January,
1966.
Added by
26 of 1964,
s. 6.

13A. On and after the first day of January, nineteen hundred and sixty-six, the leaving age applicable in respect of any child shall be the age of the child at the end of the year in which he attains the age of fifteen years; but this section shall not apply to any child who attains that age during the year nineteen hundred and sixty-six unless the child attends school during that year.

Reasonable
excuse.
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.]

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.

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.

Welfare officers may accost children in public places. Amended by No. 30 of 1943, s. 5; No. 72 of 1957, s. 10; No. 37 of 1962, s. 6; No. 37 of 1966, s. 10; [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 a welfare officer, shall

be guilty of an offence and liable on summary conviction to a penalty not exceeding twenty dollars.

(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—Twenty dollars.

Penalties for neglect.
Amended by
No. 30 of
1943, s. 6;
No. 30 of
1952, s. 8;
No. 72 of
1957, s. 11;
No. 26 of
1964, s. 7;
No. 37 of
1966, s. 10;
[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 a superintendent of education, 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 two dollars nor exceeding ten dollars.

(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.

Onus of Proof.

(2) The allegations in the complaint that the complainant is a welfare officer, a superintendent of education, 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.

(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.
Amended by No. 30 of 1943, s. 7;
No. 72 of 1957, s. 12;
No. 37 of 1966, s. 10;
[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 forty dollars.

(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 forty dollars.

(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;
 No. 26 of
 1964, s. 8.

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 a superintendent of education, 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, 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 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.

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.

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 a superintendent of education, or of any other person authorised in that behalf by the Minister, before a children's court under the Child Welfare Act, 1947, to show cause why such child should not be committed to the care of the Child Welfare Department under that Act.

Habitual truants. Amended by No. 30 of 1943, s. 8; No. 72 of 1957, s. 14; No. 37 of 1962, s. 9; No. 26 of 1964, s. 9. [No. 3 of 1899, s. 13. Child Welfare Act, 1907-27, s. 42.]

(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.

Amended by No. 72 of 1957, s. 15; No. 37 of 1966, s. 10.

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: One dollar.

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

Amended by No. 30 of 1952, s. 9; No. 72 of 1957, s. 16; No. 57 of 1960, s. 13; No. 26 of 1964, s. 10; No. 37 of 1966, s. 10; No. 12 of 1967, s. 3. Cf. No. 55 of 1919, s. 2.

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.

(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.

Instructions
for such
children.

(3) [*Repealed by No. 12 of 1967, s. 3.*]

(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;

Proceedings
on failure
to provide
education.

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.

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

Order of
Court.

- (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 to a penalty of not less than two dollars and not more than ten dollars.

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

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 satisfaction 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.

(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) [*Repealed by No. 12 of 1967, s. 3.*]

(10) [*Repealed by No. 12 of 1967, s. 3.*]

(11) [*Repealed by No. 12 of 1967, s. 3.*]

(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 a superintendent of education or some other person authorised by him in that behalf), and the Minister's decision shall be conclusive.

Meaning of
"Institu-
tion" 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, 1947-1950.¹

(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.
Amended by
No. 37 of
1966, s. 3.
[No. 3 of
1999, s. 14.]

21. (1) Subject to the remaining provisions of this section, 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.

(2) The Minister may, by notice published in the *Gazette*, declare—

¹ Now Child Welfare Act, 1947-1969.

- (a) that any child ordinarily resident within the area described in the notice may be refused admission to any Government school other than that specified in the notice;
- (b) that any child whose last attendance at school prior to commencing his secondary education was at a Government primary school specified in the notice and who has not since that attendance changed his place of residence may be refused admission to any Government secondary school other than that specified in the notice,

and subject to subsection (4) of this section a notice so published has effect for the purposes of this Act according to its tenor.

(3) Where a child who wishes to attend a Government secondary school—

- (a) did not attend a Government school during the year in which he completed his primary education; or
- (b) has since his last attendance at school prior to his commencing his secondary education changed his place of residence,

the Minister may refuse admission of that child to any Government secondary school other than that determined by the Minister.

(4) A notice published pursuant to subsection (2) of this section may be cancelled or from time to time varied by a subsequent notice published in the *Government Gazette*, and any such subsequent notice, other than a notice of cancellation, shall have and take effect on and after the first day of January next following the date of its publication.

(5) In this section “primary school” and “secondary school” have the respective meanings that are for the time being prescribed.

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.

Power to
appoint
persons
to make
complaints
of, and
prosecute,
offences.
Added by
No. 72 of
1957, s. 17.

(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.

Power to members of Police Force to prosecute. Added by No. 37 of 1966, s. 4.

21B. (1) For the purposes of this Act every member of the Police Force, by virtue of his office and without appointment or authority other than this subsection, is appointed and authorised by this subsection to make complaints and conduct prosecutions of offences alleged against any of the provisions of this Part whenever requested by the Director-General to do so.

(2) In any proceedings for any offence against any of the provisions of this Part, no proof is required that a complaint made or a prosecution conducted by a member of the Police Force was made or is conducted, as the case requires, by that member at the request of the Director-General.

Heading added by No. 91 of 1969, s. 5.

PART VA.—BOARD OF SECONDARY EDUCATION.

Establishment of Board of Secondary Education. Added by No. 91 of 1969, s. 5.

21C. (1) For the purposes of this Part, there shall be a Board to be called the Board of Secondary Education to be constituted in accordance with the provisions of this Part.

(2) The Board shall consist of three *ex-officio* members, namely—

- (a) the Director-General of Education;
- (b) The Director of Catholic Education; and
- (c) the person appointed under section 21F of this Act to be Director of the Board of Secondary Education,

and of sixteen other members to be appointed by the Minister.

(3) Of the members of the Board to be appointed by the Minister—

- (a) four shall be officers of the administrative staff of the Education Department nominated by the Director-General;
- (b) four shall be teachers representing Government secondary schools, of whom three shall be nominated by the Union and one by the Director-General;
- (c) four shall be persons representing the non-Government secondary schools, nominated by the Association of Independent Schools of Western Australia;
- (d) one shall be a person representing the University of Western Australia, nominated by the Senate of the University;
- (e) one shall be a person representing the Western Australian Institute of Technology, nominated by the Council of that Institute; and
- (f) two shall be persons representing the interests of the community in secondary education.

(4) An *ex-officio* member of the Board, other than the Director of the Board, may, by writing addressed to the Minister, appoint a person to be his deputy at any meeting of the Board at which the *ex-officio* member is not present, and any person so appointed has, at any meeting of the Board which he attends as deputy of the *ex-officio* member, all the powers and functions of that member.

21D. (1) Each member of the Board appointed by the Minister shall be appointed for a term of three years and is eligible for re-appointment.

Term of office, etc., of appointed members. Added by No. 91 of 1969, s. 6.

(2) If a member referred to in subsection (1) of this section—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) is an incapable person within the meaning of the Mental Health Act, 1962;
- (d) is an undischarged bankrupt or has his affairs under liquidation by arrangement with his creditors;
- (e) is absent without leave of the Board from four consecutive meetings of the Board; or
- (f) ceases to hold any qualification required for his becoming or being a member,

his office shall become vacant and be filled in accordance with the provisions of subsection (3) of this section.

(3) Where a casual vacancy occurs in the office of a member, the Minister may appoint a person to the vacant office, and the person so appointed—

- (a) shall have the like qualification, if any, that was required of the member whose office has become vacant; and
- (b) shall, subject to this Act, hold office as member for the residue of his predecessor's term of office.

Proceedings
of Board,
etc.
Added by
No. 91 of
1969, s. 7.

21E. (1) The Director-General shall preside at any meeting of the Board at which he is present.

(2) At any meeting of the Board at which the Director-General is not present, the Deputy Director-General of Education shall, if he is a member of the Board and is present at the meeting, preside thereat, but if the Deputy Director-General of Education is not a member or is a member but is not present at that meeting, the members present at the meeting shall elect a member to preside thereat.

(3) At a meeting of the Board—

- (a) ten members form a quorum; and
- (b) a question arising at the meeting shall be determined by a majority of the votes of the members present.

(4) The members of the Board may be paid such fees and allowances at the Minister determines.

(5) No act or thing done by the Board is invalidated, prejudiced or affected by reason of any vacancy in the membership of the Board, or any defect in the appointment of any member, so long as a quorum of the Board remains.

21F. (1) The Minister may appoint a person to be the Director of the Board of Secondary Education.

Director of Board.
Added by No. 91 of 1969, s. 8.

(2) The Director of the Board shall, in addition to being an *ex-officio* member of the Board, be the chief executive officer thereof.

(3) The Director of the Board shall hold office as such for such period and on such terms and conditions as the Minister determines.

(4) Where a person who has been appointed Director of the Board was, immediately before he was so appointed, employed under the Public Service Act, 1904 or the provisions of this Act, other than this Part, he is, upon ceasing to hold office as Director of the Board, entitled to be re-appointed under the Public Service Act, 1904 or those provisions, as the case requires, to a position of no less status than that enjoyed by him immediately prior to his appointment as Director of the Board.

21G. (1) The Board may, subject to any award or agreement made or in force under the Industrial Arbitration Act, 1912, appoint, suspend and terminate the appointment of, a member of the staff or other employee of the Board.

Staff of the Board.
Added by No. 91 of 1969, s. 9.

(2) Subject to subsection (1) of this section, the terms and conditions of service of any employee of the Board shall be as determined by the Board with the approval of the Minister.

(3) Where the Director or any member of the staff or employee of the Board was, immediately prior to his being appointed Director or becoming such member of the staff or an employee, as the case requires, employed under the provisions of the Public Service Act, 1904 or the provisions of this Act other than this Part, his service as Director, member of the staff or employee of the Board, as the case requires, shall, for the purpose of determining all his existing and accruing rights, be counted as service under the Public Service Act, 1904 or those provisions of this Act.

Functions of
the Board.
Added by
No. 91 of
1969, s. 10.

21H. The Board may—

- (a) approve of courses of study for secondary schools and other bodies and institutions conducting courses of secondary education;
- (b) establish and carry into effect procedures for the purposes of—
 - (i) assisting schools and other bodies and institutions in the assessment of students undertaking courses of secondary study; and
 - (ii) ensuring the comparability of assessments of students made by those schools and other bodies and institutions;
- (c) having regard to the recommendations of the schools and other bodies and institutions at which students have undertaken courses of secondary study approved by the Board, issue certificates of achievement to those students; and
- (d) carry out such other functions as, in the opinion of the Board, are necessary or desirable for the proper fulfilment of the

functions set out in paragraphs (a), (b) and (c) of this section.

21 I. The funds necessary for the administration of this Part shall be provided out of the moneys that may from time to time be appropriated by Parliament for the purpose.

Funds for administration of this Part. Added by No. 91 of 1969, s. 11.

PART VI.—PARENTS AND CITIZENS' ASSOCIATIONS

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

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.

Parents and Citizens' Associations. Amended by No. 57 of 1960, s. 14. [No. 27 of 1922, s. 2.]

(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 by providing facilities and amenities for the school or group, including buildings, swimming pools and any type of recreational or educational facilities and amenities, and generally to endeavour to foster community interest in educational matters.

Objects of an Association. Substituted by No. 57 of 1960, s. 15. Amended by No. 37 of 1966, s. 5.

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

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

Profit of association to be used for benefit of children attending Government schools.

Substituted by No. 57 of 1960, s. 18.
Amended by No. 26 of 1964, s. 11.

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 any Government school.

(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.

Association not to exercise authority over teaching staff.

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

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.

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

PART VII.—REGULATIONS.

Regulations. Amended by No. 30 of 1943, s. 9;

No. 30 of 1952, s. 10;
No. 57 of 1960, s. 20;
No. 26 of 1964, s. 12;
No. 17 of 1965, s. 4;
No. 37 of 1966, ss. 6 and 10.

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.
- (p2) The determination of the times when, the manner in which, and the conditions upon which, moneys referred to in section nine B of this Act shall be paid to efficient schools.
- (q) Any other purpose that may be necessary or convenient for carrying out the provisions of this Act.
- (r) Imposing a penalty not exceeding Forty Dollars for the breach of any regulation.

(2) (a) Subject to the provisions of section thirty-seven AE of this Act the Minister shall determine the salaries and allowances payable under this Act to teachers, and other officers and the allowances payable to students enrolled in teachers' colleges.

(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 and other officers and the allowances payable to students as provided in subsection (2) of this section, at least once in every three 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. [*Added by No. 7 of 1930, s. 2. Repealed by No. 30 of 1952, s. 11.*]

PART VIII.—MISCELLANEOUS PROVISIONS.

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

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:—

Religious instruction may be given. Amended by No. 57 of 1960, s. 21. [No. 16 of 1993, ss. 18-21.]

- (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.

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 attend-
ance at a
place of
religious
worship to
be imposed.
Amended by
No. 26 of
1964, s. 13.
[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 a superintendent of education 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.
Amended by
No. 37 of
1966, s. 10.
[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 case 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 of 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 ten dollars 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.*]

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.

Power to inspect any school teaching to leaving certificate standard. Added by No. 30 of 1952, s. 13. Amended by No. 37 of 1966, s. 10.

Penalty: Twenty dollars.

(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.

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.

Teaching
to be in
English
language
except
instruction
in prescribed
foreign
language
and
literature.
Added by
No. 30 of
1952, s. 13.
Amended by
No. 37 of
1966, s. 10.

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.

(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 fifty dollars and in the case of continuing offence to a further fine of twenty dollars for each week during which the offence continues.

Entry
permitted
to ascertain
whether
teaching is
in English.
Added by
No. 30 of
1952, s. 13.
Amended by
No. 37 of
1966, s. 10.

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: Two hundred dollars.

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.

Schools other than Government to keep registers of attendance and supply information. Amended by No. 30 of 1952, s. 14; No. 72 of 1957, s. 21. [No. 3 of 1899, s. 17.]

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

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. 37 of 1966, s. 10. [No. 6 of 1905, s. 4, No. 30 of 1926, s. 4.]

- (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.

(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 four dollars.

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

Kindergarten.
 Added by
 No. 30 of
 1943, s. 11.
 Amended by
 No. 30 of
 1952, s. 17;
 No. 57 of
 1960, s. 23;
 No. 37 of
 1966, 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.

(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—Two hundred dollars 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.

Penalty for
disturbance.
Amended by
No. 37 of
1966, s. 10.
[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 four dollars and not less than one dollar.

Regulations
as to
examina-
tions for
certain
bursaries
and
scholarships.
[No. 3 of
1899, s. 19.]

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.

Establish-
ment of
Government
School
Teachers'
Tribunal.
Substituted
by No. 57 of
1960, s. 24.
Amended by
No. 37 of
1966, s. 7.

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.

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, 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.

Remuneration of chairman.

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

Nominee 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.

Elected member.

(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.

Tenure of office of nominee and elected members.

(8a) The appointments of the nominee member and the elected member to hold office for a term of three years that commenced on the seventeenth day of April, nineteen hundred and sixty-four, are subject to the provisions of this Act and notwithstanding subsection (8) of this section extended until and including the sixth day of May, nineteen hundred and sixty-seven, and no longer.

(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.

Filling of vacancies in membership.
Added by No. 57 of 1960, s. 25.

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.

(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.

(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.

Vacancy in membership not to invalidate acts of Tribunal.

(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.

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

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.

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

(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.

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

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.

Jurisdiction
of Tribunal.
Added by
No. 57 of
1960, s. 25.
Amended by
No. 37 of
1962, s. 10;
No. 37 of
1968, s. 8;
No. 37 of
1966, s. 10.

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.

(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 determination of the Minister pursuant to this Act in respect of salaries or 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 four dollars;
 - (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;
No. 26 of
1964, s. 14;
No. 61 of
1965, s. 2.

(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—

“efficiency” has the same meaning as it has in Part XIV of the regulations;

“seniority” means, as between teachers, seniority by longer period of full time service as a teacher in the Education Department; 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 a teacher in that Department and from which his service has been continuous;

“service” includes—

- (i) service as a monitor;
- (ii) service as a student in a teacher’s college;
- (iii) service as a science teacher exhibitor at the University of Western Australia;
- (iv) service in a temporary capacity as a teacher in the Education Department, if that service immediately precedes and is continuous with the service of that teacher on and after his appointment to the permanent staff of the Department; and

- (v) service as a teacher employed under the control of the Director of Technical Education in his capacity as Regional Director of Industrial Training for Commonwealth Training Schemes, if that service immediately precedes and is continuous with the service of that teacher as a teacher in the Education Department following his appointment thereto.

(4) Notwithstanding the provisions of subsection (1) of this section—

- (a) a teacher may not appeal to the Tribunal as referred to in subsection (3) of this section unless that teacher is one appointed permanently to the teaching staff of the Education Department except that where the recommended applicant is not a permanent member of that teaching staff, teachers engaged in continuous full-time employment in that department may appeal in respect of that recommendation;
- (b) a teacher who has applied for more than one position as prescribed by the regulations shall on his appealing in respect of any of the positions applied for be bound by the order of preference submitted in his application, unless he satisfies the Tribunal that change of circumstances since lodging his application warrant a variation of that order of preference, and the Tribunal shall in hearing and determining the appeal have regard to such order of preference as submitted or varied, as the case may be.

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, 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.

Meetings of Tribunal and records of proceedings.

Added by No. 57 of 1960, s. 25.
Amended by No. 37 of 1966, ss. 9-10.

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.

(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 twenty dollars.

(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 or the respondent or both of them, as the case requires, out of the moneys appropriated by Parliament for the purposes of this Act.

37AI. (1) The Tribunal—

- (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, 1902,¹ 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,

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

¹ Now Royal Commissions Act, 1968.

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, 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.

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.

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.

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;
- (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.

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.

Annual report.
[35 Vic.,
No. 14, s. 6.]

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

Sections of
Schedule 2
of Inter-
pretation
Act incor-
porated.

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, 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.

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.

(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, on the court in respect of any security mentioned in section eighty of that Act.

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

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.

Section 31.
Amended by
No. 37 of
1966, s. 10.

SECOND SCHEDULE.

EDUCATION ACT, 1928.

Return of Children below the age of Fourteen Years.

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 ten dollars or in default, to one month's imprisonment.

THIRD SCHEDULE.

Section 34.

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.]