

WESTERN AUSTRALIA.

EDUCATION ACT 1928-1981.

ARRANGEMENT.

Sec.

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Approved for reprint 19 July 1984.

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 31 December 1929;
No. 7 of 1930¹, assented to 19 November 1930;
No. 30 of 1943, assented to 12 November 1943;
No. 30 of 1952², assented to 5 December 1952;
No. 44 of 1955, assented to 5 December 1955;
No. 72 of 1957, assented to 10 December 1957;
No. 57 of 1960³, assented to 2 December 1960;
No. 40 of 1961⁴, assented to 16 November 1961;
No. 37 of 1962⁵, assented to 29 October 1962;
No. 26 of 1964, assented to 4 November 1964;
No. 17 of 1965, assented to 1 October 1965;
No. 61 of 1965, assented to 19 November 1965;
No. 37 of 1966, assented to 31 October 1966;
No. 12 of 1967, assented to 20 October 1967;
No. 48 of 1967⁶, assented to 24 November 1967;
No. 23 of 1968⁷, assented to 16 October 1968;
No. 91 of 1969, assented to 17 November 1969;
No. 4 of 1970, assented to 29 April 1970;
No. 77 of 1970, assented to 30 November 1970;
No. 3 of 1972⁸, assented to 8 May 1972;
No. 89 of 1972⁹, assented to 4 December 1972;
No. 94 of 1972¹⁰, assented to 4 December 1972;
No. 14 of 1973¹¹, assented to 30 May 1973;
No. 15 of 1973¹², assented to 30 May 1973;
No. 59 of 1973, assented to 19 November 1973;
No. 61 of 1974¹³, assented to 9 December 1974;
No. 10 of 1975¹⁴, assented to 9 May 1975;
No. 33 of 1975¹⁵, assented to 16 May 1975;
No. 102 of 1975¹⁶, assented to 1 December 1975;
No. 18 of 1976, assented to 3 June 1976;
No. 95 of 1976, assented to 12 November 1976;
No. 27 of 1977¹⁷, assented to 27 October 1977;
No. 48 of 1979¹⁸, assented to 7 November 1979;
No. 100 of 1981, assented to 4 December 1981;
No. 96 of 1982¹⁹, assented to 1 December 1982;
No. 26 of 1983, assented to 1 December 1983.

and reprinted pursuant to the Amendments Incorporation Act 1938.]

¹ Expired 31 December 1931.

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

³ Came into operation 17 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 17 April 1961. See section 2 (2) of that Act.

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

⁶ Came into operation 1 January 1968.

⁷ Came into operation 1 January 1969.

⁸ Came into operation 1 January 1972.

⁹ Came into operation 23 August 1974. See *Gazette* 23/8/74, p. 3115.

¹⁰ Metric Conversion Act, 1972 relevant amendments effective 1 January, 1973. See *Gazette* 29/12/72, p. 4811.

¹¹ Came into operation 1 January 1973.

¹² Came into operation 1 July 1973. See *Gazette* 29/6/73, p. 2488.

¹³ Came into operation 17 January 1975. See *Gazette* 17/1/75, p. 106.

¹⁴ Sections 3, 4, 5, 6, 8, and 9 of No. 10 of 1975 are deemed to have come into operation on 1 January 1975. See section 2 (2) of that Act.

¹⁵ Came into operation 31 October 1975. See *Gazette* 31/10/75, p. 4016.

¹⁶ Sections 3, 4, 5, 9, 10, 11, 12 (b), 14, 15 and 16 came into operation on 1 January 1976. See *Gazette* 31/12/75, p. 4698. The balance came into operation on assent.

¹⁷ Came into operation 13 January 1978. See *Gazette* 13/1/78, p. 107.

¹⁸ Came into operation 1 February 1980. See *Gazette* 1/2/80, p. 285, and s. 2 (2) of that Act.

¹⁹ Came into operation 22 June 1984. See *Gazette* 22/6/84, p. 1663.

Long title.
Amended by
No. 57 of
1960, s. 3;
No. 48 of
1979, s. 3.

AN ACT to consolidate and amend the law relating to Public Education and for incidental and other purposes.

[Assented to 28 December 1928.]

BE it enacted—

Short title.
Amended by
No. 100 of
1981, s. 1.

1. This Act may be cited as the *Education Act 1928-1981*.

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

PART I.—INTRODUCTORY PROVISIONS.

Arrange-
ment.
Inserted by
No. 72 of
1957, s. 2.
Amended by
No. 91 of
1969, s. 2;
No. 77 of
1970, s. 2;
No. 89 of
1972, s. 3;
No. 27 of
1977, s. 3.

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.—*Repealed by No. 89 of 1972, s. 5.*]

PART V.—ATTENDANCE AT SCHOOLS.

PART VA.—BOARD OF SECONDARY EDUCATION.

PART VI.—PARENTS AND CITIZENS' ASSOCIATIONS.

PART VIA.—CARE-CENTRES AND PRE-SCHOOL CENTRES.

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.

Interpreta-
tion.

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;

No. 89 of

1972, s. 4;

No. 15 of

1973, s. 3;

No. 61 of

1974, s. 3;

No. 10 of

1975, s. 3;

No. 27 of

1977, s. 4;

No. 48 of

1979, s. 4.

[See No. 3 of

1899, s. 3.]

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

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

“care-centre” means an assembly at appointed times of three or more children over the age of three years, the majority of whom are more than one year below the minimum age for admission to year 1 of a Government primary school, for the care, guidance and education of those children, but does not include such an assembly—

(a) at a Government school; or

(b) where the children are members of the same family or of not more than two families;

“Department” means the Education Department of the State referred to in section 4 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 pre-primary centre, primary school, secondary school, technical college, or technical school established or deemed to have been established by the Minister under this Act;

“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;

“pre-school centre” means an assembly at appointed times of three or more children over the age of four years, the majority of whom are one year or less below the minimum age for admission to year 1 of a Government primary school, for the education, guidance and care of those children, but does not include such an assembly—

(a) at a Government school; or

(b) where the children are members of the same family or of not more than two families;

“school” means a Government or efficient school;

“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”—

(a) in relation to any school not being a Government school, includes any person forming part of the teaching staff of the school; and

(b) in relation to a Government school or the Department, includes any person engaged in teaching and any person holding or acting in a position in the Department in respect of

Education.

which a teaching academic qualification is required but does not include any person, whether or not he holds such a qualification, who is—

- (i) a Government officer as defined in section eleven A of the Industrial Arbitration Act 1912¹; or
- (ii) a Worker as defined in section six of the Industrial Arbitration Act 1912¹,

“Teacher education course” means—

- (a) a course of teacher education provided by a teachers’ college; and
- (b) a course of study provided by any other tertiary education institution that is approved pursuant to subsection (4) of section thirty-seven A of this Act as a teacher education course for the purposes of this Act;

“Teachers’ College” has the same meaning as a college has in and for the purposes of the Teacher Education Act 1972²;

“teaching staff” in relation to a Government school or the Department includes persons who are engaged in teaching and persons who hold or act in positions in the Department in respect of which a teaching academic qualification is required and includes any position in respect of which such a qualification is required but does not include persons who are—

- (a) Government officers as defined in section eleven A of the Industrial Arbitration Act 1912¹; or

¹ Now Industrial Arbitration Act 1979.

² Repealed by Colleges Act 1978.

(b) Workers as defined in section six of the Industrial Arbitration Act 1912¹,

and any position or office in the Department to which the Government Employees (Promotions Appeal Board) Act 1945 or the Public Service Act 1978 applies;

“Tertiary education institution” has the same meaning as that expression has in and for the purposes of the Western Australian Tertiary Education Commission Act 1970²;

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

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

[Subsection (2) repealed by No. 37 of 1962, s. 3.]

[Section 3A inserted 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 1937, 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.]

¹ Now Industrial Arbitration Act 1979.

² Now Western Australian Post-Secondary Education Commission Act 1970.

Property
vested in
Minister.
[57 Vict.,
No. 16, s. 5.]

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

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

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

Appoint-
ment of
officers and
teachers.
Substituted
by No. 48 of
1979, s. 5.

7. (1) There shall be appointed under and subject to the Public Service Act 1978, a Director-General of Education and such other officers as may be necessary for the due administration of this Act.

(2) The Minister may appoint teachers and employees, other than officers, of the Department.

(3) The Minister, or, where the Minister delegates to him the power conferred on the Minister by this subsection, the Director-General, may, subject to the regulations and the Government School Teachers Arbitration and Appeal Act 1979, transfer or promote any teacher or employee, other than an officer, of the Department.

(4) The Public Service Act 1978, the Government Employees (Promotions Appeal Board) Act 1945 and the Public Service Arbitration Act 1966, do not apply to or in relation to teachers appointed, transferred or promoted under this section.

[*Previous section 7A. inserted by No. 30 of 1952, s. 4. Repealed by No. 4 of 1970, s. 2.*]

Application
of sections
7A to 7E.
Inserted by
No. 100 of
1981, s. 2.

7A. Sections 7A to 7E (both inclusive) apply only to the teaching staff of the Department.

7B. In the appointment, transfer or promotion of any teacher no regard shall be had to whether the teacher is an officer or member of the Union or is a person who is not a member of the Union.

No preference in respect of membership of the Union.
Inserted by No. 100 of 1981, s. 2.

7C. (1) In this section—

“authorized person” means a person authorized by the Director-General for the purposes of this section;

Disciplinary action for misconduct.
Inserted by No. 100 of 1981, s. 2.
Amended by No. 26 of 1983, s. 2.

“continuous service” means continuous service as defined by the regulations;

“service” means service as defined by the regulations;

“the regulations” means regulations made under this Act.

(2)¹ For the purposes of this section a teacher shall be guilty of misconduct if—

- (a) he disobeys or disregards a lawful order applicable to him as a person on the teaching staff of the Department;
- (b) he fails to comply with or contravenes any of the provisions of this Act or the regulations;
- (c) he is absent from school without leave;
- (d) he wilfully makes a false entry in a return or register; or
- (e) he engages in disgraceful or improper conduct in his official capacity or otherwise by reason of which he ceases to be a fit and proper person to hold office as a teacher.

¹ Section 3 (a) and (b) of Act No. 26 of 1983 reads as follows—

- (a) where an inquiry is being held in relation to a teacher under subsection (3) of section 7C of the principal Act, based on alleged misconduct described in paragraph (e) of subsection (2) of that section as in force immediately before the coming into operation of this Act, but that inquiry has not been finally determined when this Act comes into operation, the inquiry shall continue to be dealt with and determined in all respects as if this Act had not been enacted; and
- (b) where it is alleged that prior to the coming into operation of this Act a teacher has been guilty of the kind of misconduct described in paragraph (e) of subsection (2) of section 7C of the principal Act as in force immediately before the coming into operation of this Act, an inquiry may be held and dealt with in all respects under that section after the coming into operation of this Act.

(3) Where it appears to the Director-General that a teacher may be guilty of misconduct the Director-General shall cause an inquiry to be held by an authorized person.

(4) It is not necessary for an inquiry under subsection (3) of this section to be formal but the teacher shall be informed of the nature of the alleged misconduct and be given an opportunity of furnishing an explanation in relation thereto.

(5) Where—

- (a) an inquiry is being held under subsection (3) of this section; or
- (b) a teacher has been charged with an offence against any other Act and it appears to the Director-General that if the teacher is convicted of the charge the offence may be such as to constitute misconduct by the teacher,

the Director-General may suspend the teacher from duty.

(6) Subject to subsection (7) and subsection (8) of this section, where the Director-General suspends a teacher from duty under subsection (5) the teacher shall not be paid his salary in respect of the period of the suspension.

(7) The Director-General may, at his discretion, determine that the teacher—

- (a) be paid his salary in respect of the period of the suspension;
- (b) be paid his salary in respect of such part of the suspension as the Director-General specifies; or
- (c) be paid such part of his salary as the Director-General specifies in respect of the period of the suspension or in respect of such part of that period as the Director-General specifies.

(8) Where the Director-General has suspended a teacher from duty under subsection (5) of this section the Director-General may at any time remove the suspension.

(9) Where—

- (a) after an inquiry has been held under subsection (3) of this section, the Director-General is not satisfied that the teacher has been guilty of misconduct; or
- (b) upon the hearing by a court of the charge against a teacher referred to in paragraph (b) of subsection (5) of this section, who has been suspended from duty under that subsection the teacher does not plead guilty to, and is not found guilty of, the offence with which he was charged or of another offence that appears to the Director-General to be such as to constitute misconduct by the teacher, or the charge against such a teacher is not proceeded with,

the Director-General shall, if he has not already done so, remove the suspension.

(10) Where—

- (a) a teacher has been suspended from duty under subsection (5) of this section;
- (b) an amount of salary that would otherwise have been paid to the teacher in respect of the period of the suspension was not paid to him;

and

- (c) the Director-General removes the suspension,

the teacher shall be paid that amount of salary.

(11) The period of suspension imposed under subsection (5) of this section—

- (a) does not count as service unless it is subsequently removed by the Director-General under subsection (8) or (9) of this section;
- (b) does not constitute a break in continuous service.

(12) Where as a result of an inquiry under this section the Director-General determines that a teacher is guilty of misconduct he may—

(a) by order in writing impose one or more of the following punishments on the teacher, namely—

- (i) a reprimand;
- (ii) a fine not exceeding \$200;
- (iii) transfer the teacher at the teacher's own expense;
- (iv) reduce the teacher's salary grade;
- (v) reduce the teacher from one position to another carrying a lower salary or remuneration;

or

- (vi) subject to subsection (15) of this section, suspension for any period up to 12 months;

or

(b) make a report and recommendation to the Minister that the teacher be dismissed.

(13) Upon considering the report and recommendation of the Director-General made pursuant to subsection (12) (b) of this section and the explanation (if any) given by the teacher pursuant to subsection (4) of this section the Minister may order in writing that the teacher be dismissed and the order has effect accordingly.

(14) A fine imposed pursuant to this section may be recovered—

- (a) notwithstanding the provisions of any other Act, by deduction from the salary of the teacher; or
- (b) as a debt to the Minister in any court of competent jurisdiction.

(15) A teacher shall not be paid his salary in respect of a period of suspension imposed as a punishment under subsection (12) of this section and such a period of suspension—

- (a) does not count as service;
- (b) does not constitute a break in continuous service.

7D. (1) In this section—

“declaration” means a declaration made under subsection (5) of this section;

“order” means an order given or purported to be given by or on behalf of the Director-General with respect to work that a teacher is performing or is to perform and includes an instruction in relation thereto;

“salary” includes wages or other remuneration and any allowances payable to a teacher;

“the regulations” means the regulations made under this Act;

“the Tribunal” means the Government School Teachers Arbitration and Appeal Tribunal established under the Tribunal Act;

“the Tribunal Act” means the Government School Teachers Arbitration and Appeal Act 1979.

No work
as ordered—
no pay.
Inserted by
No. 100 of
1981, s. 2.

(2) An order is deemed to have been given to a teacher for the purposes of this section if a school timetable or programme approved by or on behalf of the Director-General has been prepared and brought to the attention of the teacher (whether before or after the coming into operation of this section) specifying therein the subjects to be taught, or the activity to be carried out, by the teacher at a specified time or over specified periods of time.

(3) Subject to subsection (4) of this section, this section has full force and effect according to its tenor, notwithstanding any inconsistency—

- (a) with any other provision of this Act;
- (b) with any other law of the State enacted before the coming into operation of this section;
- (c) with any—
 - (i) determination made under this Act as in force before the coming into operation of the Education Act Amendment Act 1979; or
 - (ii) agreement or award under the Tribunal Act whether made before or after the coming into operation of this section.

(4) A declaration with respect to a teacher is not a punishment for the purposes of section 29 (1) (e) of the Tribunal Act but a teacher who is aggrieved by a declaration may within 14 days of being served with notice of the declaration appeal to the Tribunal but only on the ground that the teacher did not refuse or fail to comply with an order and, notwithstanding anything in the Tribunal Act, on no other ground, and the Tribunal is hereby authorized to hear and determine such appeal.

(5) If—

- (a) a teacher has refused or failed to comply with an order or refuses or fails to comply with an order; and

- (b) the Director-General makes a declaration that the teacher has refused or failed to comply with an order or refuses or fails to comply with an order,

the teacher is not entitled to salary in respect of the period of such refusal or failure or commencing from the time of such refusal or failure as the case may be.

(6) A declaration shall include a statement of the period of time that a teacher refused or failed to comply with an order or the time and date from which he commenced to refuse or fail to do so, as the case requires.

(7) Where the Director-General is satisfied that a teacher in respect of whom a declaration has been made has complied with the order in respect of which the declaration was made the Director-General shall give a direction that the teacher's refusal or failure has ceased specifying in the direction the time and date of such cessation and where the Director-General gives such a direction the teacher again becomes entitled to salary.

(8) A declaration and any direction under subsection (7) of this section shall be in writing and is valid if signed or purported to be signed by the Director-General.

(9) A declaration may be cancelled, varied or revoked by the Director-General at any time either wholly or in relation to a specified teacher.

(10) A declaration may be made in relation to a teacher with respect to a refusal or failure of the teacher to comply with a particular order or with particular orders notwithstanding that the teacher—

- (a) attends for duty and performs work other than work to which that order, or any of those orders, as the case requires, relates;
or

- (b) attends for duty and, in the performance of his work, complies with that order or with some or all of those orders, as the case requires, in part only.

(11) Subject to subsection (12) of this section, the powers conferred on the Director-General by this section are in addition to, and not in substitution for, any other powers conferred by or under this Act on the Minister, the Director-General or any other person in relation to a teacher.

(12) No proceedings shall be taken with respect to a teacher under section 7C of this Act in relation to any matter in respect of which a declaration has been made in relation to the teacher.

(13) Notwithstanding subsection (12) of this section, where a declaration is in force with respect to a teacher the Director-General may terminate the declaration and proceed against the teacher under section 7C of this Act but no such proceedings shall be taken against the teacher in respect of any refusal or failure of the teacher to comply with an order before the termination of the declaration.

(14) Where a declaration is made, varied, cancelled or revoked the Director-General shall cause such notice as he deems appropriate to be given of the making of the declaration, or of the variation, cancellation or revocation of the declaration as the case may be.

(15) The period during which a declaration is in force in respect of a teacher forms part of his period of service or employment under this Act for the purposes of the Superannuation and Family Benefits Act 1938 and shall, unless the Minister determines otherwise (as he is hereby authorized to do), form part of his period of service under this or any other Act.

7E. A teacher who is absent from duty without leave is not entitled to be paid in respect of the period that he has been so absent.

No pay for absence without leave.
Inserted by No. 100 of 1981, s. 2.

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.

Director-General of Education.
Amended by No. 57 of 1960, s. 6; No. 91 of 1969, s. 4.

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

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

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

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

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

9A. (1) Notwithstanding anything to the contrary in The Assisted Schools Abolition Act 1895¹, 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 subsidizing of schools.
Inserted 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; No. 77 of 1970, s. 3; No. 59 of 1973, s. 2; No. 33 of 1975, s. 3.

- (a) subsidizing efficient schools for the purpose of enabling those schools 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

¹ Repealed by Statute Law Revision Act 1964.

school grounds), to an amount in each case equivalent to but not exceeding the amount that would be paid by the Minister if 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;
- (d) paying to efficient schools at which fees are payable for the tuition of scholars, prescribed amounts in respect of prescribed scholars;
- (e) reimbursing efficient schools, to such extent and upon such conditions as the Treasurer of the State determines in respect of interest paid by those schools on money borrowed by them for prescribed purposes on or after the first day of January, nineteen hundred and sixty-five;
- (f) paying prescribed amounts to prescribed scholars at efficient schools for the purpose of assisting those scholars in the purchase of text books; and
- (g) paying to or in respect of efficient schools or scholars at efficient schools, such other amounts or subsidies as are prescribed.

(2) The moneys representing the amounts prescribed pursuant to subsection (1) of this section shall be paid to efficient schools or scholars at efficient schools, as the case requires, at such times, in such manner and subject to such conditions as are prescribed.

[Section 9B inserted by No. 17 of 1965, s. 3;
Repealed by No. 33 of 1975, s. 4.]

[Section 9C inserted by No. 17 of 1965, s. 3;
Repealed by No. 33 of 1975, s. 4.]

[Section 9D inserted by No. 23 of 1968, s. 5;
Repealed by No. 33 of 1975, s. 4.]

[PART IV (Sections 10 and 10A)—Repealed by
No. 89 of 1972, s. 5.]

PART V.—ATTENDANCE AT SCHOOLS.

11. No fees shall be payable for children attending any Government primary school or Government pre-primary centre.

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; No. 61 of 1974, s. 4.
[See No. 3 of 1899, s. 4.]

12. (1) The Minister may authorize 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 or pre-primary centre.

Scale of fees.
Amended by No. 57 of 1960, s. 11; No. 61 of 1974, s. 5.
[No. 3 of 1899, s. 5.]

(2) All such fees for instruction shall be paid to and received by the several persons authorized in that behalf by the Minister, and may be recovered by the Minister or by the person so authorized, 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, authorizing 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 authorized.

Fees, to whom payable and how recoverable.

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. 77 of 1970, s. 7;
No. 94 of 1972, s. 4;
No. 61 of 1974, s. 6;
No. 95 of 1976, s. 2.
[No. 3 of 1899, s. 6.]

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

- (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 three kilometres 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 five kilometres 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;

[*Paragraph (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 two kilometres, 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 three kilometres, 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.

(1a) A Government pre-primary centre is not a Government school for the purposes of this section.

[Subsection (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.

(3c) Notwithstanding the provisions of subsection (1) of this section where the parent of a child is required by a direction served and in force under section twenty A of this Act to cause the child to attend a school specified in the direction he shall, unless that school is not open or some reasonable excuse for non-attendance is shown, cause the child to attend that school during such times as are specified in the direction.

(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 two 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) or (3c) 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 1
January 1966.
Inserted by
No. 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 authorized 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. 102 of 1975, s. 3. [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 two hundred 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: Two hundred dollars.

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 authorized 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 a penalty not exceeding two hundred 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. 102 of 1975, s. 4. [No. 3 of 1899, s. 10.]

(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 authorized 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.

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

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

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

[Subsection (5) repealed by No. 72 of 1957, s. 11.]

Employment of children of compulsory age.
Amended by No. 30 of 1943, s. 7; No. 72 of 1957, s. 12; No. 37 of 1956, s. 10; No. 102 of 1975, s. 5.
[No. 3 of 1899, s. 12.]

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.

(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 five hundred dollars.

[Subsection (4) repealed 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 two hundred dollars.

[Subsection (6) repealed by No. 72 of 1957, s. 12.]

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

Truancy.
Inserted by
No. 72 of
1957, s. 13.
Amended by
No. 37 of
1962, s. 7;
No. 26 of
1964, s. 8;
No. 102 of
1975, s. 6.
Cf. s. 18
as to
constant and
habitual
absence.

(2) On complaint made by a welfare officer, or by a superintendent of education, or by any other person authorized 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.

When child released on probation may be committed to care of the Department for Community Welfare.
 Inserted by No. 37 of 1962, s. 8.
 Amended by No. 102 of 1975, s. 7.

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 cause the child to be summoned before a children's court under the Child Welfare Act 1947.

(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 Department for Community Welfare until he attains leaving age, or during such shorter period as the court may think sufficient.

18. (1) If a child is 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 authorized 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 Department for Community Welfare 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. 102 of 1975, s. 8. [No. 3 of 1959, 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 Department for Community Welfare 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 Department for Community Welfare for such period not extending beyond the attainment by the child of leaving age as the court fixes.

[Subsection (4) repealed by No. 72 of 1957, s. 14.]

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

Incorrigible children.

[Subsection (6) repealed by No. 72 of 1957, s. 14.]

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 authorized in that behalf.

Parent summoned to produce child to court.
Amended by No. 72 of 1957, s. 15; No. 37 of 1966, s. 10; No. 102 of 1975, s. 9.

Penalty: Two hundred dollars.

Definition of "advisory panel".
Substituted by No. 95 of 1976, s. 3.

20. In section twenty A, twenty B or twenty C of this Act the term "advisory panel" means an advisory panel convened and constituted under section twenty D of this Act.

Children requiring special education.
Inserted by No. 95 of 1976, s. 4.

20A. (1) Where it appears to an advisory panel that a child of not less than six years of age nor more than leaving age has a mental or physical disorder or disability of such a nature that the interests of that child would be best served if he were to attend a school providing education of a kind specially suited to persons suffering from such a disorder or disability, the Minister may, on the recommendation of the panel, serve on the parent of the child a direction in writing requiring the parent to cause the child to attend such school or schools as is or are specified in the direction during such times as are so specified.

(2) Subject to subsection (5) of section twenty E of this Act a direction served under this section shall come into force on such date as is specified in the direction and shall remain in force until—

- (a) it lapses or is revoked or cancelled under this Act;
- (b) the parent of the child to whom it relates is served with another direction under this section or a direction under section twenty B of this Act; or
- (c) the child to whom it relates attains leaving age,

whichever occurs first.

(3) At any time whilst a direction under this section is in force in relation to a child the Minister may—

- (a) serve on the parent of that child a notice in writing revoking the direction; or
- (b) on the recommendation of an advisory panel, serve on the parent of that child another direction under this section in relation to the child.

(4) Notwithstanding section fourteen of this Act, whilst a direction served under this section is in force in relation to a child the mental or physical disorder or disability by reason of which the direction was served shall not be regarded as providing a reasonable excuse for the non-attendance of that child at a school specified in the direction.

20B. (1) Where it appears to an advisory panel that a child has a mental or physical disorder or disability of so severe a nature that the presence of that child in a Government school would disrupt the normal operation of the school the Minister may, on the recommendation of the panel, serve on the parent of the child a direction in writing directing the parent to refrain from causing the child to attend any Government school and whilst the direction remains in force the Minister shall refuse to permit the child to attend any Government school.

Children
with severe
disorders.
Inserted by
No. 95 of
1976, s. 5.

(2) A direction served under this section shall come into force on the day following the day on which it is served and shall remain in force until—

- (a) it lapses or is revoked or cancelled under this Act; or
- (b) the parent of the child to whom it relates is served with a direction under section twenty A of this Act,

whichever occurs first.

(3) At any time whilst a direction under this section is in force in relation to a child the Minister may serve on the parent of that child a notice in writing revoking the direction.

(4) The provisions of sections thirteen and sixteen of this Act do not apply to or in relation to a child whilst a direction served under this section is in force in relation to that child.

Review and confirmation of direction by Minister. Inserted by No. 95 of 1976, s. 6.

20C. (1) Where a direction served under section twenty A or twenty B of this Act is in force in relation to a child the parent of that child may—

- (a) within twenty-one days after the expiration of a period of one year from the date of the service of the direction; and
- (b) within twenty-one days after the expiration of any subsequent period of two years,

serve on the Minister a request in writing requesting the Minister to reconsider the direction and, within sixty days after being served with that request, the Minister shall consider whether it is necessary for the direction to remain in force and may, on the recommendation of an advisory panel, serve a notice in writing on the parent confirming the direction.

(2) If the Minister does not confirm a direction within sixty days after being served with a request under subsection (1) of this section and the direction is still in force at the expiration of that period, the direction shall thereupon lapse.

Advisory panels. Inserted by No. 95 of 1976, s. 7. Amended by No. 48 of 1979, s. 6.

20D. (1) The Minister may convene an advisory panel whenever he considers it necessary or desirable to do so for the purposes of section twenty A, twenty B or twenty C of this Act.

(2) An advisory panel shall consist of two or more persons who, because of their professional or other qualifications or experience, are in the opinion of the Minister qualified to give advice as to the educational or other needs of a child having regard to the disorder or disability from which the child suffers.

(3) Of the members of an advisory panel—

- (a) at least one shall be a teacher; and
- (b) at least one shall be either a guidance officer appointed under this Act or a psychologist.

- 20E. (1) A parent who has been served with—
- (a) a direction under section twenty A or twenty B of this Act; or
 - (b) a notice under section twenty C of this Act confirming a direction under section twenty A or twenty B of this Act,

Children's
court may
cancel or
confirm
direction.
Inserted by
No. 95 of
1976, s. 8.

may, within thirty days after the service of that direction or notice, as the case may be, on complaint duly laid before a children's court and served on the Minister as defendant to the proceedings, apply to the court for an order cancelling the direction.

(2) In any proceedings under this section the onus shall lie on the Minister to show cause why the direction should not be cancelled.

(3) In any proceedings under this section the Minister may be represented by a person authorized by the Minister in that behalf.

(4) On the hearing of a complaint under this section the court shall make an order—

- (a) cancelling the direction; or
- (b) confirming the direction,

and may, if it thinks fit, make an order as to the costs of the proceedings.

(5) Where, within thirty days after being served with a direction under section twenty A of this Act, a parent lays a complaint under this section before a children's court—

- (a) if the direction is not in force when the complaint is laid—the direction shall not come into force until the court has heard and determined the complaint;

- (b) if the direction is in force when the complaint is laid—the direction shall, by operation of this subsection, cease to be in force from the time when the complaint is laid until the court has heard and determined the complaint.

(6) Nothing in subsection (5) of this section prevents the Minister from exercising his powers under subsection (3) of section twenty A or subsection (3) of section twenty B of this Act at any time whilst the determination of a complaint laid under this section is pending.

Certain statements to be included in directions and notices. Inserted by No. 95 of 1976, s. 9.

20F. (1) There shall be included in every direction served under section twenty A or twenty B of this Act a statement advising the parent of the child to whom the direction relates that he may—

- (a) within twenty-one days after the expiration of a period of one year from the date of the service of the direction; and
- (b) within twenty-one days after the expiration of any subsequent period of two years,

serve on the Minister a request in writing requesting the Minister to reconsider the direction.

(2) There shall be included in—

- (a) every direction served under section twenty A or twenty B of this Act; and
- (b) every notice served under section twenty C of this Act confirming a direction served under section twenty A or twenty B of this Act,

a statement advising the parent of the child to whom the direction relates that he may, within thirty days after the service of the direction or notice, as the case may be, apply to a children's court pursuant to section twenty E of this Act for an order cancelling the direction.

20G. (1) If a person holding or acting in a prescribed class of position is of the opinion that the conduct and behaviour of a child attending a Government school is not conducive to the good order and proper management of the Government school the person may suspend the child from attendance at the Government school in accordance with and subject to the regulations.

Suspension and exclusion of a child from a Government school. Inserted by No. 96 of 1982, s. 3.

(2) Where, pursuant to subsection (1) of this section, a person holding or acting in a prescribed class of position suspends a child from attending a Government school the person may in addition recommend to the Minister that the child be excluded from attending the Government school.

(3) A recommendation made under subsection (2) of this section shall be subject to review and confirmation by a panel constituted in accordance with the regulations.

(4) On receipt of a recommendation made under subsection (2) of this section that has been confirmed in accordance with subsection (3) of this section the Minister may, on the recommendation of the Director-General, by order exclude the child in relation to whom the recommendation is made from attending at the Government school specified in the order or at any Government school.

(5) In any order made under this section the Minister may give such further directions as he thinks fit relating to the education of the child with respect to whom the order is made.

(6) An order made in relation to a child under this section may be varied or revoked by the Minister by further order and shall remain in force for the period specified in the order or if no such period is specified, until further order made by the Minister under this section with respect to the child.

(7) Where—

- (a) the Minister excludes a child from attending a Government school and pursuant to subsection (5) of this section gives directions relating to the education of the child in relation to whom the order is made; and
- (b) the child fails to comply with such directions without an excuse that is deemed a reasonable excuse under section 14 of this Act,

the child is deemed to be habitually absent from school for the purposes of section 18 of this Act and the provisions of that section apply accordingly.

(8) The suspension or exclusion of a child from attending a Government school under this section has effect notwithstanding any other provision of this Act and is a defence in any proceeding under this Act relating to the child's non-attendance at school.

Minister
may refuse
admission to
Government
school in
certain
cases.
Amended by
No. 37 of
1966, s. 3.
[No. 3 of
1899, 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 *Government Gazette*, declare—

- (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.

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

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

(2) Production by a person named in it, of a written appointment and authorization 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 authorized 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.
Inserted 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 authorized 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.

Onus of
proof.
Inserted by
No. 59 of
1973, s. 4.

21BA. (1) On any hearing in any court in respect of a complaint of an offence alleged against any of the provisions of this Part, any allegation in the complaint that—

- (a) the complainant has an office, status, title, or authority specified in the complaint;
- (b) a child is not less than six years of age nor more than leaving age;
- (c) a child is of any other age, is not less than any other age, or is not more than any other age, specified in the complaint; or

- (d) a child attained an age specified in the complaint on a date specified in the complaint,

shall be deemed *prima facie* evidence to that effect until the contrary is proved.

(2) The provisions of subsection (1) of this section are in addition to, and not in derogation of, any other provision of this Part.

PART VA.—BOARD OF SECONDARY EDUCATION.

Heading.
Inserted 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.

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

(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.

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

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.

(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.

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

Proceedings
of Board, etc.
Inserted by
No. 91 of
1969, s. 7;
Amended by
No. 14 of
1973, s. 4.

(2) At any meeting of the Board at which the Director-General is not present, an Assistant Director-General of Education shall, if he is a member of the Board and is present at the meeting, preside thereat, but if an Assistant 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 as 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.

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

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

(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 1978 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 1978 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.

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

21G. (1) The Board may, subject to any award or agreement made or in force under the Industrial Arbitration Act 1979, appoint, suspend and terminate the appointment of, a member of the staff or other employee of the Board.

(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 1978 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 1978 or those provisions of this Act.

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, on payment to the Board by a student of such fee as the Board determines, issue to the student a duplicate of any such certificate previously issued to him; 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.

Functions of
the Board.
Inserted by
No. 91 of
1969, s. 10.
Amended by
No. 59 of
1973, s. 5.

Funds for administration of this Part.
 Inserted by No. 91 of 1969, s. 11.
 Amended by No. 59 of 1973, s. 6.

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 and out of the moneys that may from time to time be received by the Board as fees for the issue of duplicate certificates of achievement.

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

PART VI.—PARENTS AND CITIZENS' ASSOCIATIONS.

Parents and Citizens' Associations.
 Amended by No. 57 of 1960, s. 14;
 No. 59 of 1973, s. 7.
 [No. 27 of 1922, s. 2.]

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

(2) An association desirous of doing so may affiliate with the body known as The Western Australian Council of State School Organisations upon such terms and conditions as shall from time to time be determined by that body.

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

23. The object 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.

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

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

26. (1) An association shall expend or invest all amounts received by it that are in excess of expenditure for the benefit of the children who are attending any Government school.

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.

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

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

Association not to exercise authority over teaching staff.

Amended by No. 57 of 1960, s. 19. (No. 27 of 1922, s. 7.1

PART VIA.—CARE-CENTRES AND PRE-SCHOOL CENTRES.

Heading. Inserted by No. 27 of 1977, s. 5.

27A. (1) 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 care-centre or pre-school centre unless the conducting or carrying on of that centre is authorized by a permit issued by the Minister under this Act.

Care-centres and pre-school centres to be authorized.

Inserted by No. 27 of 1977, s. 6.

Penalty: Two hundred dollars or imprisonment for a period not exceeding six months.

(2) The conducting or carrying on of a pre-school centre approved pursuant to the scheme established by the Pre-School (Education and Child Care) Act 1973-1975¹, shall be deemed to have been authorized by a permit issued by the Minister under this Act unless or until the Minister, by notice in writing, cancels that permit which he is hereby empowered to do in circumstances which would justify the cancellation of a permit issued pursuant to section twenty-seven B of this Act.

¹ Repealed by Act No. 27 of 1977, also see s. 27D. of this Act.

Permits.
Inserted by
No. 27 of
1977, s. 7.

27B. (1) An application for a permit to conduct or carry on a care-centre or a pre-school centre shall be made in writing in the prescribed form to the Minister and shall be supported by such other particulars or information as is prescribed or as the Minister requires.

(2) The Minister may—

- (a) grant a permit to conduct or carry on a care-centre or pre-school centre, either unconditionally or subject to such conditions as are prescribed or as may be specified in the permit;
- (b) refuse to grant a permit; or
- (c) cancel any permit at any time if, in the opinion of the Minister—
 - (i) the conditions subject to which the permit was granted are not being observed; or
 - (ii) the regulations made under this Act relating to that centre are contravened.

(3) Every care-centre or pre-school centre authorized to be conducted or carried on pursuant to this Act, or deemed to be so authorized, is subject to inspection and supervision by any officer of the Education Department appointed by the Director-General for that purpose.

(4) The Director-General shall cause a list of all care-centres and pre-school centres for the time being authorized, or deemed to be authorized, under this Act to be published in the *Government Gazette* not less than once in each calendar year.

Assistance.
Inserted by
No. 27 of
1977, s. 8.

27C. (1) The Minister may, out of such moneys as may be provided by Parliament for the purposes of this Act, render assistance to care-centres and to pre-school centres by way of—

- (a) subsidies or grants for capital or recurrent expenses;

- (b) teachers and teacher aides employed by the Education Department;
- (c) consultative and advisory services; and
- (d) equipment and supplies.

(2) Moneys representing assistance rendered pursuant to subsection (1) of this section may be paid at such times, in such manner and subject to such conditions as are prescribed.

27D. (1) The Pre-School (Education and Child Care) Act 1973-1975, is repealed.

Repeal and transitional provisions. Inserted by No. 27 of 1977, s. 9.

(2) All the right, title and interest in and to any property which immediately prior to the coming into operation of this section was vested in the body known as the Western Australian Pre-School Board established by the Pre-School (Education and Child Care) Act 1973-1975, is by force of this section transferred to and vested in the Minister for the purposes of this Act, and all obligations and liabilities of that body existing immediately prior thereto are in like manner imposed on the Minister.

PART VII.—REGULATIONS.

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

- (a) The appointment, powers and duties of teachers and employees, other than officers, of the Department.
- (a1) The 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.

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

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; No. 89 of 1972, s. 6; No. 10 of 1975, s. 5; No. 95 of 1976, s. 10; No. 27 of 1977, s. 10; No. 48 of 1979, s. 7.

- (d) The admission, training, examination, certification, classification, appointment, promotion, transfer, suspension, 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.

[Paragraph (e) deleted by No. 57 of 1960, s. 20.]

[Paragraph (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.

[*Paragraph (m1) deleted by No. 57 of 1960, s. 20.*]

- (n) The management of institutions similar to teachers' colleges.
- (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.
- (o1) The general management of care-centres and of pre-school centres, and for all such other matters relating thereto as may be necessary to give effect to sections twenty-seven A to twenty-seven D 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.

[*Former paragraph (p2) deleted by No. 95 of 1976, s. 10.*]

- (p2) The collection, by way of salary deduction or otherwise, of the rent payable by a teacher of the Department in respect of living quarters leased to the teacher by the Crown, the Minister, or any agent or instrumentality of the Crown.

- (q) Any other purpose that may be necessary or convenient for carrying out the provisions of this Act.
- (r) Imposing a penalty not exceeding two hundred dollars for the breach of any regulation.

[Subsection (2) and (2a) repealed by No. 48 of 1979, s. 7.]

[Subsections (3), (4) and (5) repealed by No. 30 of 1952, s. 10.]

[Former section 28A inserted by No. 7 of 1930, s. 2. Repealed by No. 30 of 1952, s. 11.]

Regulations
for the
control and
management
of school
lands.
Inserted by
No. 48 of
1979, s. 8.

28A. (1) For the purposes of this section—

“school lands” means any lands vested in or under the control and management of the Minister or both that are used for or in connection with a Government school and includes all buildings, structures and erections of whatsoever kind or nature and whether permanent or temporary, standing or being on such lands.

(2) In addition to the powers conferred on the Minister by section twenty-eight of this Act the Minister may make such regulations as he considers are expedient or necessary or convenient for the management, care, protection, control and superintendence of school lands.

(3) Without limiting the generality of subsection (1) of this section the Minister may make regulations—

- (a) providing for the appointment of authorized persons for the purposes of the regulations;
- (b) providing for the issue of administrative instructions for the purpose of facilitating the administration of the regulations;

- (c) prohibiting or regulating the admission to school lands of persons, vehicles and animals;
- (d) prescribing the times when and the purposes for which school lands may be used, and the time when and the purposes for which those lands shall be open or closed and prohibiting the use thereof or access thereto at any other times, or for any other purpose;
- (e) prohibiting the use of vehicles, including provisions as to speed, manner of driving, class of vehicles, routes, entrances and exits, one-way traffic, noise, parking or standing, the removal of vehicles by an authorized person and for the regulation of traffic generally;
- (f) providing—
 - (i) that, where an allegation is made of a breach of a regulation and an element of the breach is the use, driving, parking, standing, or leaving of a vehicle and the identity of the driver or person in charge of the vehicle at the time of the breach cannot be immediately established, a notice of the allegation may be addressed to the owner of the vehicle at his last known place of residence or business or may be served on the owner of the vehicle by leaving it in or upon, or attaching it to, the vehicle; and
 - (ii) that if—
 - (I) the prescribed penalty is not paid within the period specified in the notice; or

Education.

(II) the owner of the vehicle does not, within the period specified for the payment of the penalty—

(A) identify the person who was the driver or person in charge of the vehicle at the relevant time to an authorized person; or

(B) satisfy an authorized person that, at the relevant time the vehicle had been stolen or unlawfully taken or used,

the owner is deemed to be the driver or person in charge of the vehicle at the time of the alleged breach;

(g) prescribing the circumstances under which an authorized person may remove a vehicle or cause it to be removed from the school land to any specified place, whether on those lands or not, prescribing his further powers in relation thereto, providing for the recovery of costs and expenses incurred by the Minister in moving and holding the vehicle, and authorizing the Minister to hold the vehicle until all costs and expenses are paid;

(h) prescribing the method of notifying a person alleged to have committed an offence against any regulation made pursuant to this subsection of that alleged offence and how it shall be dealt with, and prohibiting the removal by any person other than the driver or owner of a vehicle in respect of which an offence against such a regulation is alleged to have been committed of any notice relating to the offence affixed to the vehicle or left in or on the vehicle by an authorized person;

- (i) prescribing a modified penalty or modified penalties payable to the Minister by a person or one of a class of persons who does not contest an allegation that he committed any specified breach of the regulations and providing that the due payment of a modified penalty is a defence to a charge in respect of which that modified penalty was paid;
- (j) prescribing fees, charges and exemptions;
- (k) providing for the prevention of damage to or interference with school lands, and the trees, shrubs, bushes, flowers, gardens and lawns on or in those lands;
- (l) providing for the use, safety and preservation of buildings, structures, erections, fixtures, fittings and chattels;
- (m) providing for the conduct of meetings and the interruption of meetings or classes by noise, unseemly behaviour or other means;
- (n) providing for the prohibition of nuisances, or any offence, indecent or improper act, conduct, language, or behaviour;
- (o) providing for the prohibition, restriction or regulation of the possession, use or supply of alcoholic liquor or deleterious substances;
- (p) providing for the recovery of summary compensation for damage to the property of the Minister;
- (q) requiring any person, of and when required to do so by an authorized person, to give his name and address to the authorized person; and
- (r) providing for the apprehension of persons guilty of a breach of any regulation by any Police Officer, authorized person, teacher, officer or employee of the Department.

- (4) Regulations made pursuant to this section—
- (a) apply only within the boundaries of school lands;
 - (b) may be limited in their application, to time, place or circumstance;
 - (c) may provide that any act or thing shall be done with the approval or to the satisfaction of a specified person or class of person or class of persons and may confer a discretionary authority;
 - (d) may impose a penalty not exceeding two hundred dollars for any breach or non-observance thereof.

(5) With respect to any contravention of a regulation made under this section by a student the Minister may direct that a student be dealt with—

- (a) in accordance with any regulation relating to discipline made pursuant to section twenty-eight of this Act; or
- (b) by way of complaint under the Justices Act 1902,

but not both.

(6) No regulation made under this section takes away, restricts or otherwise affects any liability, civil or criminal arising under any provision of any Act other than this Act or at common law.

PART VIII.—MISCELLANEOUS PROVISIONS.

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

- (a) The children receiving such religious instruction shall be separated from the other children of the school.

Heading amended by No. 72 of 1957, s. 20.
Religious Instruction may be given.
Amended by No. 57 of 1960, s. 21.
[No. 16 of 1893, ss. 18-21.]

- (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 authorized by the church to which the clergyman or other religious teacher belongs.

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

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

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

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

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

Objections to religious instruction.

30. (1) It shall not be required, as a condition of any child being admitted into or continuing in any school, that he shall attend or abstain from attending any Sunday school, or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere, from which observance or instruction he may be withdrawn by his parent, or that he shall, if withdrawn by his parent, attend the school on any day exclusively set apart for religious observance by the religious body to which his parent belongs.

No condition as to attendance at a place of religious worship to be imposed. Amended by No. 26 of 1964, s. 13. [35 Vict., No. 14, s. 22.]

(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. 102 of
1975, s. 11.
[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 *Government 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 a penalty not exceeding one hundred dollars.

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

Power to
inspect any
school
teaching to
final year of
secondary
education.
Inserted by
No. 30 of
1952, s. 13.
Amended by
No. 37 of
1966, s. 10;
No. 102 of
1975, s. 12.

32A. (1) The proprietor, headmaster or principal teacher of any school which provides instruction up to and including the final year of secondary education, shall apply to the Minister, within one month from the commencement of the Education Act Amendment Act 1952, or the establishment of the school, to have the school registered in the register of efficient schools kept in the Education Department for the purpose.

Penalty: Two hundred 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 *Government 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. Inserted by No. 30 of 1952, s. 13. Amended by No. 102 of 1975, s. 13.

(2) The Minister shall cause a copy of the list of schools which have been inspected and found efficient to be published from time to time in the *Gazette*.

List of efficient schools to be published.

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

Removal of schools from list of efficient schools.

[Section 32C inserted by No. 30 of 1952, s. 13.
Repealed by No. 95 of 1976, s. 11.]

[Section 32D inserted by No. 30 of 1952, s. 13.
Repealed by No. 95 of 1976, s. 11.]

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.]

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 authorized 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 authorized 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 authorized by the Minister, to inspect and make copies from the said register.

Proprietors of private schools to make monthly and quarterly return of attendances.
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. 102 of 1975, s. 15; No. 95 of 1976, s. 12.
[No. 6 of 1905, s. 4; No. 30 of 1926, s. 4.]

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—

- (a) shall forward to the Education Department in Perth within the first seven days of every month, a return in the form of the Third Schedule of this Act, giving the names of all scholars between the age of six years and leaving age who have been absent on any occasion without satisfactory excuse during the preceding month, and a list of all scholars between those ages who have been admitted, with the date of admission, and the name of the last school attended, and a list of all the scholars who have left during the preceding month; and
- (b) shall forward to the Education Department in Perth, within seven days after the close of every school term, such statistical information as may be prescribed;

(c) for the purposes of this section "primary school" means any school which has not been placed on the list of secondary schools of the Education Department.

(2) If the provisions of this section are not duly complied with, the proprietor shall be liable to a penalty not exceeding one hundred dollars.

[Subsection (3) repealed by No. 72 of 1957, s. 22.]

[Section 34A inserted by No. 30 of 1943, s. 11. Repealed by No. 15 of 1973, s. 4.]

[Section 35 repealed by No. 48 of 1979, s. 9.]

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

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

36A. The Minister, with the approval of the Treasurer of the State, may, on behalf of any teacher who, immediately before he became a teacher, was—

Special provision for superannuation and like benefits in respect of employees formerly employed by W.A. Pre-School Board. Inserted by No. 18 of 1976, s. 2.

- (a) an employee of the Western Australian Pre-School Board; and
- (b) a contributor to a scheme maintained by that Board for the purposes of making financial provision in respect of the retirement, invalidity or death of employees of that Board,

participate in that scheme and make contributions under the scheme in respect of any such teacher, but nothing in this section shall authorize the Minister to continue to make any contributions to that scheme on behalf of a teacher who becomes a contributor for the purposes of the Superannuation and Family Benefits Act 1938.

[Section 37 repealed by No. 48 of 1979, s. 10.]

[Sections 37AA, 37AB, 37AC, 37AD, 37AE, 37AF, 37AG, 37AH, 37AI and 37AJ inserted by No. 57 of 1960, s. 25. Repealed by No. 48 of 1979, s. 10.]

Agreements entered into by students. Substituted by No. 14 of 1973, s. 5. Amended by No. 10 of 1975, s. 9.

37A. (1) The Minister may give financial assistance to a student pursuing, or seeking to be admitted to,—

- (a) a course of teacher education provided by a teachers' college; or
- (b) a course of study provided by any other tertiary education institution that is approved pursuant to subsection (4) of this section as a teacher education course for the purposes of this Act,

either by way of a loan or by entering into an agreement for a bond 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.

(2) The amount, the time and method of payment and repayment, and the terms and conditions applicable to the financial assistance given shall be as prescribed.

(3) Where an agreement in a form prescribed is entered into under the provisions of this section between the Minister and a student either alone or with others, that agreement shall—

- (a) if a 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; and
- (b) if the student accepts any financial assistance under the agreement,

be binding upon the student and all other parties to the agreement as to each and every term and condition expressed therein to be binding upon him or them notwithstanding that at the time when he executed the agreement the student was under the age of majority.

(4) The Minister may, by instrument in writing, approve a course of study provided by a tertiary education institution (other than a teachers' college as a teacher education course for the purposes of this Act.

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

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

- (a) where before the commencement of the Education Act Amendment Act 1952, an agreement in writing has been made, between the Minister and a student either alone or with others, setting out the terms and conditions upon which the student was admitted to the teachers' college, the student and all other parties to the agreement, shall notwithstanding that the student was under the age of twenty-one years when he executed the agreement, be bound by each and every term and condition expressed therein to be binding upon him or them;
- (b) a bond entered into before the commencement of the Education Act Amendment Act 1952, whether jointly or severally by a party to the agreement or by any person not being a party to the agreement, conditioned on the due performance and observance by the student of the terms and conditions on his part to be performed and observed and contained in the agreement shall if the student has accepted any financial assistance under the agreement, be deemed to be valid and binding on that party or that person on and from the date thereof;
- (c) if at any time before or after the commencement of the Education Act Amendment Act 1952, the student does not perform or observe the terms and conditions on his part to be performed, observed and contained in the agreement, a person who entered into a bond conditioned on the due performance or otherwise of the terms and conditions by the student, shall be liable to pay the sum on which the bond is conditioned to Her Majesty or otherwise as the bond provides.

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

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

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

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

Jurisdiction
and powers
of children's
courts.
Inserted by
No. 72 of
1957, s. 23.
Amended by
No. 95 of
1976, s. 14.
Cf. e.g.
s. 16 (1a)
and s. 17A
(3) (b)
of this Act.

40. (1) Where this Act requires any matter to be heard and determined by a children's court or confers any jurisdiction, power, or authority on a children's court, a children's court constituted under the Child Welfare Act 1947, 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.

[*Subsection (2) repealed by No. 95 of 1976, s. 14.*]

FIRST SCHEDULE.

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

SECOND SCHEDULE.

Section 31.
Amended by
No. 37 of
1966, s. 10;
No. 95 of
1976, s. 15.

EDUCATION ACT 1928.

Return of Children below School Leaving Age.

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 now residing in this dwelling house who are below the leaving age fixed by the above Act.

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.

Education.

Section 34.
Amended by
No. 95 of
1976, s. 16.

THIRD SCHEDULE.

WESTERN AUSTRALIA.

EDUCATION ACT 1928.

Compulsory Form.

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 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 deleted by No. 30, of 1952, s. 16.]