

# EDUCATION

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# Education Act 2011

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# Education Act 2011

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The Education Act 2011 No 6 was certified on 15 April 2011 and commenced on 14 July 2011 (s 2 and GN No 414/2011; Gaz 80/2011).

Amending Legislation	Certified	Date of Commencement
Education (Amendment) Act 2015 No 11	12 May 2015	12 May 2015
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021



An Act to provide for and regulate education in the Republic.

Enacted by the Parliament of Nauru as follows:

## **PART 1 — PRELIMINARY MATTERS**

### **1 Short title**

This Act may be cited as the *Education Act 2011*.

### **2 Commencement**

This Act commences 90 days after the day it receives the certificate of the Speaker under Article 47 of the *Constitution* and came into effect on 14 July 2011.

### **3 Act binds the Republic**

This Act binds the Republic.



## PART 2 — INTERPRETATION

### 4 Definitions

In this Act:

**‘affected person’**, for a reviewable decision, is as defined in Section 105(3);

**‘approved curriculum’** means a curriculum approved by the Minister under Section 22(3);

**‘approved form’** means a form approved by the Minister under Section 112;

**‘attend’**, in relation to a school, means comply with the school’s requirements about physically attending, during all school hours, its premises or another place;

**‘authorised person’** means the Secretary or a person appointed by the Secretary under Section 113;

**‘Board’** means the Teacher Registration and Curriculum Board established by Section 39;

**‘Board member’** means a member of the Board appointed under Section 40(1);

**‘centre for special education’** means a centre established under Section 95(3);

**‘certificate of exemption’** means a certificate issued by the Secretary under Section 9;

**‘Chairperson’** means the Chairperson of the Board elected under Section 41;

**‘contagious disease’** means a disease that is likely to be transmitted by contact or close proximity between persons and that is likely to spread quickly throughout the school community;

**‘conviction’** means a finding of guilt by a court, whether or not the conviction is recorded;

**‘criminal history’**, of a person, means:

- (a) every conviction of the person for an offence, in the Republic or elsewhere, whether occurring before or after the commencement of this Act, including spent convictions; and
- (b) every charge made against the person for an offence, in the Republic or elsewhere, whether made before or after the commencement of this Act;

**‘curriculum’** means courses taught in schools, including the core content of the courses, support material and other learning resources used to deliver the courses;

**‘Department’** means the department responsible for education and the administration of this Act;

**‘detention’** means keeping a child in a classroom during a school lunch break or keeping the child at school for up to one hour after school hours;

**‘Director of Medical Services’** means the person from time to time holding or occupying the office known as Director of Medical Services within the department responsible for health;

**‘disability’**, in relation to a child, means a physical, mental, intellectual or sensory impairment which is likely to:

- (a) affect the child’s development; or
- (b) result in the child having special educational needs;

**‘full registration’** means registration granted under Section 54;

**‘government school’** means a school established under Section 74(1) and includes a centre for special education;

**‘health practitioner’** means a health practitioner of any class registered under Section 8 of the *Health Practitioners Act 1999*;

**‘home education’**, in relation to a child, means education provided at the child’s home base;

**‘home education register’** means the register kept under Section 104;

**‘inquiry’** means an inquiry held under Section 68;

**‘limited authority’** means a limited authority to teach granted under Section 56;

**‘nominated parent’** is as defined in Section 11(a)(iv);

**‘non-government school’** means a facility, other than a government school, for teaching school-age children during school hours;

**‘non-sectarian’** means not following the doctrines of a particular religious denomination or sect;

**‘parent’**, of a child, includes a guardian or other person who has legal custody of the child;

**‘primary education’** means education for year levels pre-school to year 6;

**‘principal’**, of a school, means the person responsible for the day-to-day management and control of the school;

**‘professional development requirements’** means the professional development requirements published by the Board under Section 51(b);

**‘provisional registration’** means registration granted under Section 55;

**‘recognised teaching qualification’** means a teaching qualification published by the Board under Section 51(a);

**‘registered non-government school’** means a non-government school registered under Section 82(2);

**‘registered teacher’** means a person who holds full registration or provisional registration;

**‘registration’** means:

- (a) in relation to a teacher, full registration or provisional registration;
- (b) in relation to a non-government school, registration granted under Section 82(2); and
- (c) in relation to a child, registration for home education granted under Section 98(1);

**‘reviewable decision’**, is as defined in Section 105(2);

**‘school’** means:

- (a) a government school; or
- (b) a registered non-government school;

**‘school-age child’** means a child who, on 1 January in any year:

- (a) is at least 4 years of age; and
- (b) is under 18 years of age;

**‘school day’** means a day on which a school is conducting lessons for school-age children;

**‘school hours’** means the hours prescribed under Section 13;

**‘school inspector’** means a person appointed to be a school inspector under Section 34;

**‘school week’** means any week containing a school day;

**‘school year’** means the period of 12 months from 1 January to 31 December in any year;

**‘secondary education’** means education for year levels 7 to 13;

**‘Secretary’** means the Head of the Department as defined in Section 4 of the *Public Service Act 2016*;

**‘secular’** means not concerned with religion or religious belief;

**‘serious offence’** means:

- (a) a sexual offence;
- (b) an offence involving violence or cruelty;
- (c) an offence involving dishonesty; or
- (d) an offence punishable by 12 months imprisonment or more, for which the person convicted of the offence is sentenced to at least 1 month imprisonment;

**‘special education’** means education for children with special educational needs;

**‘special educational needs’** in relation to a child with a disability, means the child’s need for education to be tailored to suit the child’s individual requirements, and to receive other forms of support and assistance, in order to maximise the child’s academic and social development;

**‘student’**, of a school, means a person enrolled at the school;

**‘teacher’** means a registered teacher or a person who has a limited authority;

**‘teachers register’** means the register kept under Section 60; and

**‘year level’**, see Section 5.

## 5 Year level

- (1) In this Act:

**‘year level’** means a class in school, concerned with a particular year’s work, containing students of about the same age or the same level of academic progress.

- (2) The first year level is pre-school.
- (3) The second year level is prep.
- (4) The subsequent year levels are numbered consecutively from 1 to 13.





## **PART 3 — OBJECTIVES AND GENERAL PRINCIPLES**

### **6 Objectives**

- (1) The objectives of this Act are to:
  - (a) make available to each school-age child in the Republic a high-quality education that will:
    - (i) help maximise the child's educational potential; and
    - (ii) enable the child to become an effective and informed member of the community; and
  - (b) promote compulsory education.
- (2) The objectives are to be achieved mainly by:
  - (a) placing responsibilities on parents and the Government in relation to the education of school-age children;
  - (b) improving the quality of education in the Republic through measures including approved curricula and teacher registration;
  - (c) providing for the establishment of government schools and the registration of non-government schools;
  - (d) providing for the education of school-age children with disabilities;
  - (e) facilitating the operation of all schools as safe, supportive and inclusive learning environments;
  - (f) encouraging a parent's involvement in his or her child's education;
  - (g) providing for compulsory education and stating the circumstances in which school attendance is not required or permitted, including providing for suspension and exclusion from school;
  - (h) establishing the Teacher Registration and Curriculum Board; and
  - (i) providing for the registration of children for home education.

### **7 General principles**

The general principles intended to guide the achievement of this Act's objectives are the following:

- (a) every child has the right to education;
- (b) parents have the responsibility of choosing a suitable education environment for their children;
- (c) education should be provided to a child in a way that:
  - (i) provides positive learning experiences;
  - (ii) promotes a safe, supportive and inclusive learning environment; and
  - (iii) recognises the child's educational needs;
- (d) the Government, parents, teachers, school communities and non-government entities should:
  - (i) recognise the fundamental importance of education; and
  - (ii) work collaboratively to achieve the best educational outcomes for school-age children; and
- (e) the Government should develop practical ways to improve the social, educational and employment outcomes of young people, including, in particular, those who are at risk of disengaging from education and training.



## **PART 4 — COMPULSORY EDUCATION**

### **DIVISION 1 — COMPULSORY ENROLMENT**

#### **Subdivision 1 — Requirement for enrolment**

## **8 Compulsory enrolment – obligation of parent**

- (1) Each parent of a school-age child shall ensure the child is enrolled at a school until the child completes the school year during which the child attains the age of 18 years.

Penalty: In the case of:

- (a) a first offence, \$50; or
  - (b) a subsequent offence, whether or not relating to the same child of the parent, \$250.
- (2) Subsection (1) does not apply to a parent of:
    - (a) a child who is registered for home education; or
    - (b) a child in respect of whom a certificate of exemption has been issued.
  - (3) It is a defence to a prosecution for an offence against subsection (1), for the defendant to prove that:
    - (a) the child lives with another parent and the defendant believed, on reasonable grounds, that the other parent had complied with subsection (1); or
    - (b) the defendant has another reasonable excuse for failing to comply with subsection (1).

## **9 Certificate of exemption**

- (1) The Secretary may, on application by the parents of a school-age child, issue a certificate of exemption in respect of the child, if satisfied that the exemption:
  - (a) is necessary or desirable, having regard to an educational, vocational training or employment opportunity offered to the child; or
  - (b) is otherwise in the child's best interests, having regard to the care, health, development or education of the child.
- (2) An application to the Secretary for a certificate of exemption:
  - (a) shall contain any relevant information reasonably required by the Secretary to decide the application; and
  - (b) may seek the exemption for a specified period or indefinitely.
- (3) The Secretary may issue the certificate of exemption:
  - (a) subject to written conditions; and
  - (b) for a lesser period than the period applied for.
- (4) The Secretary shall, if not satisfied that the exemption is necessary or desirable or otherwise in the child's best interests, refuse to issue the certificate of exemption.
- (5) The Secretary may cancel a certificate of exemption if:
  - (a) the certificate was issued in error; or
  - (b) the reason for which the certificate was issued ceases to apply.

## Subdivision 2 — Method of enrolment

**10 Method of enrolment**

A parent of a school-age child may enrol the child at a school by lodging a completed enrolment form with the principal of the school.

**11 Enrolment form**

The enrolment form:

- (a) shall require the following information:
  - (i) the identity of the child;
  - (ii) the identity and contact details of each parent of the child;
  - (iii) the place of residence of the child; and
  - (iv) the name and contact details of the parent who is authorised to make medical decisions in relation to the child (the '**nominated parent**'); and
- (b) for enrolment at a government school:
  - (i) shall require the parent to indicate whether the child is permitted to attend religious education; and
  - (ii) may require any other information the Secretary reasonably requires.

**12 Principal may require evidence**

Where required by the school's principal, the parent shall provide evidence of:

- (a) the age of the child;
- (b) the family name of the child; and
- (c) the parent's guardianship, or legal custody of the child.

## DIVISION 2 — COMPULSORY ATTENDANCE

**13 School hours**

- (1) The Minister may, by notice in the Gazette, prescribe the hours during which students are required to attend school.
- (2) The Minister may prescribe different school hours for different year levels.

**14 Compulsory attendance – obligation of parent**

- (1) Where a school-age child is enrolled at a school, each parent of the child shall ensure the child attends the school on each school day, unless:
  - (a) Section 15 applies; or
  - (b) a parent of the child gives the principal, either orally or in writing, a reason acceptable to the principal for the absence of the child.

Penalty: In the case of:

- (a) a first offence, \$50; or
- (b) a subsequent offence in the same school year, whether or not relating to the same child of the parent, \$250.
- (2) Without limiting subsection (1)(b), absence to enable a child to observe a day, or part of a day, of significance to the religious or cultural group of the child may be an acceptable reason for the absence.
- (3) It is a defence to a prosecution for an offence against subsection (1), for the defendant to prove that:

- (a) the child lives with another parent and the defendant believed, on reasonable grounds, that the other parent had complied with subsection (1);
- (b) the defendant is not reasonably able to control the child's behaviour to the extent necessary to comply with subsection (1); or
- (c) the defendant has another reasonable excuse for failing to comply with subsection (1).

## **15 Student not to attend school in certain circumstances**

A student shall not attend school:

- (a) if a notice has been issued to a parent of the student under Section 33(1):
  - (i) for the period specified in the notice;
  - (ii) until a certificate is produced under Section 33(2);
- (b) during a period of suspension or exclusion under Section 36(2) or (4);
- (c) if the student has been expelled under Section 36(4); or
- (d) during a period in which the school is temporarily closed under Section 27 or 28.

## **16 Parent to ensure non-attendance in certain circumstances**

- (1) Where a student is not permitted to attend school under Section 15, a parent of the student shall ensure the student does not attend school.

Penalty: \$50.

- (2) It is a defence to a prosecution for an offence against subsection (1) for the defendant to prove that:
  - (a) the child lives with another parent and the defendant believed, on reasonable grounds, that the other parent had complied with subsection (1);
  - (b) the defendant is not reasonably able to control the child's behaviour to the extent necessary to comply with subsection (1); or
  - (c) the defendant has another reasonable excuse for failing to comply with subsection (1).

## **17 Employment of school-age children**

- (1) A person shall not employ a school-age child during school hours.

Penalty: \$1,000.

- (2) Subsection (1) does not apply to a person who employs a child:
  - (a) who is registered for home education;
  - (b) in respect of whom a certificate of exemption has been issued; or
  - (c) who is not permitted to attend school under Section 15.
- (3) An offence against this Section is a strict liability offence.

### **DIVISION 3 — ADMINISTRATION AND ENFORCEMENT**

## **18 Records of enrolment**

The principal of a school shall:

- (a) ensure that complete and accurate records of enrolment at the school are kept;
- (b) ensure the school's enrolment forms require the information mentioned in Section 11; and

- (c) give the Secretary:
  - (i) before the start of the first school week in each school year, the records of enrolment for that year; and
  - (ii) on the last day of each month during the school year, a report on any changes in enrolment.

## **19 Records of attendance**

The principal of a school shall:

- (a) ensure that complete and accurate records of the attendance of each student of the school are kept, including a record of any reasons given by a parent for the absence of a student; and
- (b) provide the weekly record of attendance to the Secretary, at the end of each school week.

## **20 Notification of parent**

- (1) This Section applies if an authorised person reasonably suspects a parent is contravening Section 8(1) or 14(1).
- (2) The authorised person may give the parent a notice explaining:
  - (a) the parent's obligation under Section 8(1) or 14(1); and
  - (b) the penalties that apply for an offence against Section 8(1) or 14(1).
- (3) Where a notice is issued under subsection (2), the authorised person shall also take reasonable steps to meet with the parent and seek to resolve the contravention in a conciliatory way.
- (4) Where despite the authorised person taking the actions mentioned in subsections (2) and (3), the parent continues to contravene Section 8(1) or 14(1), the officer may give the parent a warning notice:
  - (a) reminding the parent of the parent's obligation under Section 8(1) or 14(1); and
  - (b) warning the parent that the parent may be prosecuted if the parent continues to contravene Section 8(1) or 14(1).

## **21 Limits on proceedings against a parent**

A prosecution of a parent for an offence against Section 8(1) or 14(1), may only be started:

- (a) by the Secretary or with the Secretary's consent; and
- (b) if the parent is alleged to have committed the offence after the steps mentioned in Section 20(2), (3) and (4) have been taken.

## **PART 5 — STANDARDS APPLICABLE TO ALL SCHOOLS**

### **DIVISION 1 — CURRICULUM**

#### **22 Approval of curriculum**

- (1) The Secretary shall make submissions on curriculum to the Board.
- (2) The Board:
  - (a) shall make curriculum recommendations to the Minister, after considering submissions from the Secretary; and
  - (b) may recommend to the Minister that curriculum experts be retained or other external assistance obtained to assist the Secretary in developing or revising submissions on curriculum.
- (3) The Minister shall approve a curriculum for each year level.

#### **23 Adherence to curriculum**

- (1) The principal of a school shall ensure the approved curriculum for each year level taught at the school is adhered to.
- (2) The Secretary shall monitor the principal's compliance with subsection (1).
- (3) The Board shall report to the Minister about adherence to curriculum.

#### **24 Request for information**

- (1) The Board may request information from the Secretary or the principal of a school about:
  - (a) curriculum; or
  - (b) teaching in schools.
- (2) The Secretary or principal shall comply with the request.

#### **25 Modification of curriculum**

The principal of a centre for special education may modify approved curriculum for the purpose of meeting the special educational needs of the students enrolled at the centre.

### **DIVISION 2 — ENVIRONMENT**

#### **26 School environment**

The principal of a school shall ensure that:

- (a) the school environment is clean, safe and secure;
- (b) the school has an adequate supply of clean running water during school hours; and
- (c) sufficient toilet and bathroom facilities for students are in working order during school hours.

#### **27 Temporary closure of government school**

- (1) If, for reasons beyond the principal's control, the principal of a government school is unable to fulfil all of his or her responsibilities under Section 26, the principal shall recommend to the Secretary that the school be temporarily closed.

- (2) On receiving the recommendation, the Secretary shall:
  - (a) if the Secretary reasonably believes that the problem with the school environment can be resolved promptly, immediately deploy the resources required to resolve the problem as quickly as possible; or
  - (b) if the Secretary reasonably believes that the problem with the school environment cannot be resolved promptly, order the temporary closure of the school.
- (3) When making a decision under subsection (2), the Secretary shall give primary consideration to the health, safety and welfare of students and staff at the school.

## **28 Temporary closure of registered non-government school**

- (1) Where for reasons beyond the principal's control, the principal of a registered non-government school is unable to fulfil all of his or her responsibilities under Section 26, the principal shall recommend to the proprietor that the school be temporarily closed.
- (2) On receiving the recommendation, the proprietor shall:
  - (a) if the proprietor reasonably believes that the problem with the school environment can be resolved promptly, immediately deploy the resources required to resolve the problem as quickly as possible; or
  - (b) if the proprietor reasonably believes that the problem with the school environment cannot be resolved promptly, order the temporary closure of the school and inform the Secretary of the temporary closure and the reasons for it.
- (3) When making a decision under subsection (2), the proprietor shall give primary consideration to the health, safety and welfare of students and staff at the school.

## **29 Action to be taken on temporary closure of school**

Where the Secretary or the proprietor of a registered non-government school orders the temporary closure of the school, he or she shall ensure that:

- (a) a parent of each student of the school is notified of the closure and the reason for it;
- (b) each student is safely and promptly transported from the school to a place where adequate care and supervision will be provided to the student; and
- (c) the problem with the school environment is resolved as quickly as possible so the school can be reopened.

### **DIVISION 3 — HEALTH**

## **30 Health, medical and dental examinations**

- (1) The Secretary may arrange for a health practitioner to visit a government school to:
  - (a) conduct a medical or dental examination of, or provide medical or dental treatment to, all students or a particular category of students of the school; or
  - (b) advise the principal of the school on any matter relating to the health or welfare of students of the school.
- (2) If the department responsible for health has informed the Secretary at least



5 days in advance, that department may arrange for a health practitioner to visit a government school for the purposes mentioned in subsection (1)(a) or (b).

- (3) At least 2 days before a visit arranged under subsection (1) or (2), the principal of the school shall give a written notice to the nominated parent of each student proposed to be examined or treated informing the parent:
  - (a) of the date, time and purpose of the visit; and
  - (b) that the parent may object to the student being examined or treated by giving the principal written notice of the objection before the visit.
- (4) If the nominated parent notifies the principal that the parent objects to the student being examined or treated during the visit, the principal shall ensure that the student is not examined or treated.

### **31 Duty of health practitioner to notify disability**

- (1) A health practitioner who, in the course of treating, examining or consulting with a school-age child, becomes aware that the child has a disability, shall:
  - (a) notify a parent of the child about the disability; and
  - (b) with the parent's written consent, notify the following persons of the disability and how it is likely to affect the child's learning needs:
    - (i) the Director of Medical Services; and
    - (ii) the principal of the school at which the child is enrolled.
- (2) This Section does not apply if the health practitioner:
  - (a) has on a previous occasion fulfilled his or her duties under subsection (1), in relation to the child; or
  - (b) knows that a parent of the child, the Director of Medical Services and the principal of the school are already aware of the disability and the way in which it affects the child's learning needs.

### **32 Duty of parent to notify contagious disease**

A parent of a student of a school, who is aware that the student has a contagious disease, shall immediately notify the principal of the school.

### **33 Non-attendance of student carrying contagious disease**

- (1) Where the principal of a school knows or reasonably believes that a student of the school is carrying a contagious disease, the principal may give a written notice to a parent of the student directing that the student shall not attend the school for a specified period.
- (2) The principal shall readmit the student to the school on the production of a certificate signed by a health practitioner certifying that the student is fit to return to school.

## **DIVISION 4 — SCHOOL INSPECTIONS**

### **34 School inspectors**

- (1) The Minister may appoint 1 or more officers of the Department to be school inspectors.
- (2) The Board may appoint 1 or more of its members to be school inspectors.

### 35 School inspections

- (1) A school inspector may enter a school at any time to inspect the school or anything in it, including the school's records of enrolment and attendance.
- (2) Where after inspecting a school or anything in it, an inspector knows or suspects that a provision of this Act is being or has been contravened, the inspector shall notify the contravention:
  - (a) to the Minister; and
  - (b) where the inspector is a member of the Board, to the Board.

#### DIVISION 5 — DISCIPLINE

### 36 Discipline of students

- (1) In this Section:
  - 'student'* includes a student who has been expelled from a school; and
  - 'unacceptable behaviour'*, of a student at a school, means behaviour that:
    - (a) constitutes refusal to participate in the education program of the school;
    - (b) constitutes disobedience of instructions that regulate the conduct of students at the school;
    - (c) is likely to impede significantly the learning of the other students at the school;
    - (d) is likely to be harmful to the health, safety or welfare of the staff or other students at the school;
    - (e) causes or is likely to cause damage to property at the school; or
    - (f) whether exhibited inside or outside the school, constitutes the physical element of a criminal offence.
- (2) The principal of a school, if satisfied on reasonable grounds that a student of the school has exhibited unacceptable behaviour, may:
  - (a) impose a period of detention on the student; and
  - (b) suspend the student from attending the school for up to 5 school days.
- (3) If the principal believes the unacceptable behaviour of the student justifies a suspension from attending the school of more than 5 school days, the principal may refer the matter to the Secretary.
- (4) The Secretary, if satisfied on reasonable grounds that it is warranted by the unacceptable behaviour of the student, may:
  - (a) suspend the student from attending the school for up to 20 school days;
  - (b) exclude the student from attending the school for a period longer than 20 school days; or
  - (c) expel the student from the school.
- (5) The principal shall ensure that a student who is suspended or excluded under subsection (2) or (4), is given appropriate school work to complete during the suspension or exclusion.
- (6) The Secretary may, on application by a parent of the student, or on the Secretary's own motion, revoke the exclusion or expulsion of a student if satisfied that the student is willing to behave in an acceptable manner.

### 37 Corporal punishment

- (1) In this Section:

***‘corporal punishment’*** means physical force applied to punish or correct, and includes any action designed or likely to cause physical pain or discomfort.

- (2) The following persons shall not administer corporal punishment to a student of a school:
- (a) the principal of the school;
  - (b) a member of staff of the school; and
  - (c) any other person instructing or teaching, or assisting or supporting teaching, at a school.

Penalty: \$500.

#### DIVISION 6 — REPORTING

### **38 Reporting to parents**

The principal of a school shall establish procedures for giving a report at least twice a year to the parents of each student of the school about the student’s academic progress and social development at the school.



## **PART 6 — TEACHER REGISTRATION AND CURRICULUM BOARD**

### **39 Establishment of Board**

The Teacher Registration and Curriculum Board is established.

### **40 Membership**

- (1) The Board comprises 5 members appointed by the Cabinet, of whom:
  - (a) at least 3 shall have a bachelor's degree in any discipline;
  - (b) at least 1 shall be, at the time of the member's appointment, the parent of a school-age child; and
  - (c) 1 only shall be a registered teacher.
- (2) Before appointing a person to the Board, the Cabinet shall:
  - (a) publish in the Gazette a notice inviting members of the public to nominate, within 7 days after the publication of the notice, candidates for membership; and
  - (b) consider any nominations received.
- (3) Before appointing a person to the Board, the Cabinet shall be satisfied that the person is:
  - (a) of good character;
  - (b) of strong integrity; and
  - (c) capable of performing the functions of a member of the Board in a competent and objective manner.
- (4) Except for the member mentioned in subsection (1)(c), a teacher or a person who is employed in the Department is not eligible for appointment as a Board member.

### **41 Chairperson**

The Board shall elect 1 of its members to be Chairperson:

- (a) at its first meeting in each calendar year; and
- (b) whenever the office of Chairperson is vacant.

### **42 Term of office**

- (1) A Board member holds office for a term determined by the Cabinet of up to 2 years.
- (2) A Board member is eligible for reappointment, but cannot hold office for more than 3 consecutive terms.
- (3) The Cabinet:
  - (a) may revoke the appointment of a Board member at any time if:
    - (i) satisfied on reasonable grounds that the member is unfit to retain the office; or
    - (ii) the member is convicted, in any country, of a serious offence; and
  - (b) shall revoke the appointment of a Board member, if the member becomes ineligible for membership under Section 40(4).
- (4) A Board member ceases to hold office when:
  - (a) the member's term of office expires;

- (b) the member's appointment is revoked by the Cabinet under subsection (3);
- (c) the member resigns his or her office in writing addressed to the Minister; or
- (d) the member dies.

### **43 Powers and functions of Board**

- (1) The principal purpose of the Board is to improve the quality of education in the Republic by overseeing the implementation of approved curriculum and teacher registration.
- (2) The Board's principal powers and functions are to:
  - (a) make curriculum recommendations to the Minister and monitor compliance with approved curriculum;
  - (b) administer and monitor compliance with the system of teacher registration under Part 7;
  - (c) conduct inquiries under Part 8; and
  - (d) exercise any other power or perform any other function assigned to it under this or any other written law.

### **44 Committees**

The Board may establish committees consisting of members of the Board and any other person, the Board considers appropriate to assist the Board to perform its functions.

### **45 Meetings**

- (1) The Chairperson shall convene a meeting of the Board at least once each calendar month.
- (2) A quorum of 3 Board members is required for a meeting of the Board.
- (3) Where the Chairperson is absent from a meeting, the members present may appoint another member to chair the meeting.
- (4) The Board shall keep minutes of its meetings and give the Minister a copy of the minutes of each meeting.
- (5) Subject to this Section, the Board may determine its own procedures.

### **46 Annual report**

- (1) Before 31 January each year, the Chairperson shall give the Minister an annual report on the activities of the Board in exercising its powers and functions in the previous calendar year.
- (2) The Minister shall table the annual report at the next sitting of Parliament after the Minister receives it.

### **47 Administrative assistance**

The Board may arrange with the Secretary for the services of persons employed in the Department to be made available to assist the Board in performing its functions.

### **48 Minister may give directions**

- (1) Subject to subsection (2), the Minister may give the Board a written

direction in relation to its powers and functions, if the Minister is satisfied that it is necessary to do so in the public interest.

- (2) The Minister shall not give a direction to the Board to do, or not do, a particular act, or bring about a particular result, in relation to a particular person.
- (3) The Board shall comply with the Minister's direction.





## **PART 7 — TEACHER REGISTRATION**

### **DIVISION 1 — REQUIREMENT FOR REGISTRATION OR LIMITED AUTHORITY**

#### **49 Requirement for registration or limited authority**

A person shall not teach at a school, unless the person:

- (a) is a registered teacher;
- (b) has a limited authority; or
- (c) is under the direct personal supervision of a teacher with full registration

Penalty: In the case of:

- (a) a first offence, \$500; or
- (b) a subsequent offence, \$2,000.

#### **50 Employing unregistered or unauthorised person to teach**

A person shall not employ or engage a person to teach at a school, unless the person employed or engaged:

- (a) is a registered teacher;
- (b) has a limited authority; or
- (c) is under the direct personal supervision of a teacher with full registration.

Penalty: In the case of:

- (a) a first offence, \$500; or
- (b) a subsequent offence, \$2,000.

### **DIVISION 2 — STANDARDS AND PROCEDURES FOR GRANT OF REGISTRATION AND LIMITED AUTHORITY**

#### **51 Board to determine and publish registration standards**

The Board shall, in December each year, determine and publish in the Gazette registration standards that specify:

- (a) the recognised teaching qualifications for registration as a teacher; and
- (b) the professional development requirements for registered teachers for the following school year.

#### **52 Determination of good character**

- (1) In determining whether a person making an application under this Part is of good character, the Board:
  - (a) shall take into account the person's criminal history;
  - (b) shall take into account any behaviour of the person that:
    - (i) does not satisfy the standard of behaviour generally expected of a teacher;
    - (ii) is otherwise improper; or
    - (iii) shows that the person is unfit to be a teacher; and
  - (c) may take into account any other matter it considers relevant.
- (2) Where the Board proposes to determine that the person is not of good character, the Board shall give the person an opportunity to appear before it to respond to the proposed determination.
- (3) The person may appear before the Board accompanied by another person.

**53 Application for registration or limited authority**

- (1) A person may apply to the Board for full registration, provisional registration or a limited authority.
- (2) The application shall be in the approved form.
- (3) The Board may require the person to provide any information it considers necessary to consider the application.

**54 Full registration**

- (1) The Board may grant full registration to a person, if the Board is satisfied that the person:
  - (a) holds a recognised teaching qualification;
  - (b) has successfully completed at least 1 school year of full-time, or an equivalent period of part-time, teaching to the satisfaction of the Board;
  - (c) if the person was registered in the previous school year:
    - (i) has complied with any conditions of registration; and
    - (ii) has met the professional development requirements for the year; and
  - (d) is of good character.
- (2) The Board shall, if not satisfied that a person who has applied for full registration fulfils each of the requirements mentioned in subsection (1), reject the person's application for full registration.
- (3) The period of registration is 12 months.
- (4) A person who holds full registration, may apply to the Board for renewal of the registration.
- (5) The application for renewal of registration shall be:
  - (a) in the approved form;
  - (b) accompanied by evidence of:
    - (i) compliance with any conditions imposed on the previous registration; and
    - (ii) satisfactory fulfilment of the professional development requirements for the previous year; and
  - (c) made at least 1 month before the person's registration expires.
- (6) Where the application is not decided before the registration expires, the registration continues until the application is decided.
- (7) The Board shall renew the registration, if satisfied that the person:
  - (a) continues to hold a recognised teaching qualification;
  - (b) has complied with any conditions imposed on the registration;
  - (c) has met the professional development requirements for the year; and
  - (d) continues to be of good character.
- (8) The Board shall, if not satisfied that the person fulfils each of the requirements mentioned in subsection (7), reject the application for renewal of full registration.

**55 Provisional registration**

- (1) The Board may grant provisional registration to a person who does not satisfy the requirements of Section 54(1)(b), if it is satisfied that the person:
  - (a) holds a recognised teaching qualification; and

- (b) is of good character.
- (2) The Board shall, if not satisfied that a person who has applied for provisional registration fulfils both of the requirements mentioned in subsection (1), reject the person's application for provisional registration.
- (3) The period of provisional registration is 12 months.
- (4) A person may apply to the Board for extension of provisional registration.
- (5) The application for extension of provisional registration shall be:
  - (a) in the approved form;
  - (b) accompanied by evidence of compliance with any conditions imposed on the previous registration; and
  - (c) made at least 1 month before the person's provisional registration expires.
- (6) Where the application is not decided before the registration expires, the registration continues until the application is decided.
- (7) The Board shall extend the provisional registration of a person, if satisfied that the person:
  - (a) continues to satisfy the requirements of subsection (1); and
  - (b) has complied with any conditions imposed on the provisional registration.
- (8) The Board shall, if not satisfied that the person fulfils both of the requirements mentioned in subsection (7), reject the person's application for extension of provisional registration.
- (9) Where a person who is provisionally registered applies for full registration and the application is not decided before the provisional registration expires, the provisional registration continues until the application is decided.

## **56 Limited authority**

- (1) The Board may grant a person a limited authority to teach at a specified school in a specified subject, if the Board is satisfied that the person:
  - (a) does not meet the requirements of Section 54(1)(a), but has the appropriate skills, knowledge or experience that an available registered teacher does not have; and
  - (b) is of good character.
- (2) The period of the limited authority is any period the Board determines not longer than 2 years.

## **57 Board may impose conditions**

- (1) The Board may impose conditions on the full registration, provisional registration or limited authority granted to a person, which may include, but are not limited to the following:
  - (a) conditions requiring the person to complete a course or acquire experience as a teacher;
  - (b) conditions requiring the supervision of the person;
  - (c) conditions restricting the subjects the person may teach; and
  - (d) conditions restricting the education the person may provide.
- (2) The Board may, on application by the person or on its own motion, vary or revoke a condition, or impose a condition, on a person's registration or limited authority.

## 58 Certificates

- (1) The Board shall issue a certificate of full registration in the approved form to a person who is granted full registration or whose full registration is renewed.
- (2) The Board shall issue a certificate of provisional registration in the approved form to a person who is granted provisional registration or whose provisional registration is extended.
- (3) A certificate issued under subsection (1) or (2), shall state the following details:
  - (a) the teacher's full name and any former name;
  - (b) the teacher's place of residence;
  - (c) the teacher's date of birth;
  - (d) the teacher's relevant qualifications;
  - (e) the teacher's teaching experience at the time of the last application for registration or for renewal or extension of registration made by the teacher;
  - (f) the teacher's registration number;
  - (g) the category, date and expiry date of the teacher's registration;
  - (h) the details of any suspension of the teacher's registration;
  - (i) any conditions imposed on the teacher's registration; and
  - (j) any other details the Board determines.
- (4) The Board shall issue a certificate of limited authority in the approved form to a person who is granted a limited authority.
- (5) A certificate issued under subsection (4), shall state the following details:
  - (a) the person's full name and any former name;
  - (b) the person's place of residence;
  - (c) the person's date of birth;
  - (d) the person's relevant skills, knowledge or experience at the time of application for a limited authority;
  - (e) the person's limited authority number;
  - (f) the date and expiry date of the person's limited authority;
  - (g) the details of any suspension of the person's limited authority;
  - (h) the details of the limited authority;
  - (i) any conditions imposed on the person's limited authority; and
  - (j) any other details the Board determines.
- (6) The Board may issue a replacement certificate under this Section, if satisfied that the original certificate is lost or has been destroyed.

## 59 No fees payable

No fees may be imposed on a person for an application, registration or grant of limited authority under this Part.

### DIVISION 3 — TEACHERS REGISTER

## 60 Teachers register

- (1) The Board shall keep a register of:
  - (a) registered teachers; and
  - (b) persons who have a limited authority.

- (2) For each registered teacher, the teachers register shall include the details mentioned in Section 58(3).
- (3) For each person with a limited authority, the teachers register shall include the details mentioned in Section 58(5).

## **61 Notification of change in details**

Where the details of a teacher's name or place of residence entered in the teachers register change, the teacher shall notify the Board within 60 days after the change occurs.

Penalty: \$50.

## **62 Inspection of teachers register**

- (1) The Board shall, on request, give a person an extract of the teachers register showing the details mentioned in Section 58(3)(a), (f) or (g) or (5)(a), (e) or (f) about a teacher.
- (2) The Board may also, on request, give the Secretary or a principal, an extract of the register showing the following details about a teacher:
  - (a) the details mentioned in Section 58(3)(c), (d), (h) or (i) or (5)(c), (d), (g), (h) or (i); or
  - (b) any other details the teacher permits the Board to release.

## **63 Removal of name from teachers register**

The Board may remove a person's name from the teachers register if:

- (a) the person dies;
- (b) the person requests that his or her name be removed;
- (c) the person's registration or limited authority is cancelled under Section 65(b)(ii) or 72(1)(c);
- (d) the person is a registered teacher, the period of registration has expired and the person has not applied for renewal or extension of registration; or
- (e) the person has a limited authority, the period of limited authority has expired.



## PART 8 — INQUIRY AND DISCIPLINE

### **64 Notification of charge or conviction**

A teacher who is charged with a sexual offence or convicted of a serious offence, in the Republic or elsewhere, shall, within 28 days after the charge or conviction, give written notice to the Board of:

- (a) the charge or conviction;
- (b) in the case of a charge, details of the alleged offence; and
- (c) in the case of a conviction, the circumstances in which the offence was committed.

Penalty: \$500.

### **65 Disciplinary action for charge or conviction**

If the Board receives notice under Section 64, the Board may:

- (a) caution the teacher; or
- (b) if the Board considers that the circumstances of the offence or alleged offence make the teacher unfit to teach or pose an unacceptable risk that the teacher may harm a student:
  - (i) suspend the teacher's registration or limited authority for any period, and make the removal of the suspension subject to any conditions, it considers appropriate; or
  - (ii) cancel the teacher's registration or limited authority.

### **66 Notice of dismissal and resignation**

- (1) An employer who employs a person as a teacher, shall notify the Board if:
  - (a) the employer dismisses the person; or
  - (b) the person resigns in circumstances that call into question the suitability of the person to teach.
- (2) The employer shall make the notification within 28 days after the dismissal or resignation.

### **67 Complaints**

- (1) A person may complain in writing to the Board about the professional conduct of a person who is or was a teacher.
- (2) The Board may dismiss the complaint if it considers the complaint to be frivolous or vexatious.
- (3) If the Board does not dismiss the complaint, the Board shall notify the complaint to:
  - (a) the teacher; and
  - (b) if the teacher is employed at a school, the Secretary and the principal of the school.

### **68 When inquiry may be held**

- (1) The Board may decide to hold an inquiry into a complaint made under Section 67.

- (2) The Board may also hold an inquiry in respect of a person who is or was a teacher if:
  - (a) the Board reasonably believes that the person is not competent to teach;
  - (b) the Board has received a notification under Section 66;
  - (c) the person's registration to teach in another jurisdiction has been cancelled or suspended;
  - (d) the person has resigned or been dismissed from employment as a teacher in another jurisdiction in circumstances that call into question the suitability of the person to teach;
  - (e) the Board reasonably believes that the person was registered or obtained a limited authority on the basis of false or misleading information; or
  - (f) the Board reasonably believes that the person is no longer of good character.
- (3) The Board may hold an inquiry only if reasonably satisfied that it is in the public interest to do so.

## **69 Notification of inquiry**

- (1) The Board shall give a person who is the subject of an inquiry written notice of the inquiry.
- (2) The notice shall state the following:
  - (a) the nature and details of the subject matter of the inquiry;
  - (b) the date on which and the time and place at which the inquiry will be held;
  - (c) whether the inquiry will be conducted by the Board or a committee of inquiry;
  - (d) if a committee of inquiry will conduct the inquiry, the full names of the members of the committee; or
  - (e) that the person may, within 14 days after receiving the notice, give the Board a statement in writing:
    - (i) about the subject matter of the inquiry; or
    - (ii) notifying the Board that the person intends to appear for the inquiry.
- (3) The Board shall notify the Secretary and, if the person is employed at a school, the principal of the school, of the nature and details of the subject matter of the inquiry.

## **70 Conduct of inquiry**

- (1) The Board may:
  - (a) conduct the inquiry itself; or
  - (b) appoint a committee of inquiry to conduct the inquiry.
- (2) A committee of inquiry consists of 3 members appointed by the Board, of whom:
  - (a) 1 shall be a member of the Board; and
  - (b) 2 shall be registered teachers.
- (3) The Board may direct the committee in the conduct of the inquiry.
- (4) The person who is the subject of the inquiry may be represented by another person at the inquiry.



- (5) A person, if requested to do so, shall assist the Board or committee in conducting an inquiry.

Penalty: \$50.

## **71 Committee to report to Board**

- (1) Where a committee of inquiry conducts the inquiry, it shall report its findings and recommendations to the Board on completion of the inquiry.
- (2) The Board, in making a decision in relation to the inquiry, shall take the findings and recommendations into consideration.

## **72 Decision**

- (1) As a result of the inquiry, the Board may decide:
- (a) to caution the person who is the subject of the inquiry;
  - (b) to suspend the person's full or provisional registration or limited authority for any period, and subject to any conditions, it considers appropriate;
  - (c) to cancel the person's registration or limited authority;
  - (d) that the person:
    - (i) is unfit to be a teacher; or
    - (ii) is not of good character; or
  - (e) to dismiss the complaint or matter being inquired into.
- (2) The Board shall notify the Secretary and, if the person is employed at a school, the principal of the school, of its decision.



## PART 9 — GOVERNMENT SCHOOLS

### 73 Free public education

- (1) In this Section:  
*‘education’* includes the provision of instruction, administration and facilities.
- (2) Education for school-age children in government schools is free and no fees may be charged for it.

### 74 Power to establish, amalgamate or close government schools

- (1) The Minister may establish government schools at which the Government provides primary, secondary or special education.
- (2) The Minister may amalgamate:
  - (a) 2 or more government schools; or
  - (b) a government school with a non-government school in respect of which registration has expired or been cancelled.
- (3) The Minister may close a government school.
- (4) The establishment, amalgamation or closure of a government school shall be notified in the Gazette.

### 75 Operation of government school

- (1) The Secretary is responsible to the Minister for the operation of each government school.
- (2) The principal of a government school is responsible for:
  - (a) educational leadership and management of the school;
  - (b) educational outcomes for students at the school;
  - (c) fulfilling other responsibilities assigned to the principal under this Act; and
  - (d) ensuring the school is operated in compliance with this Act.

### 76 Secular education

- (1) Subject to Section 77(2), education in government schools shall be non-sectarian and secular.
- (2) Secular education in government schools may include the study of different religions as distinct from education in a particular religion.

### 77 Religious education

- (1) In this Section:  
*‘authorised representative’*, in relation to a recognised religious denomination, means a person expressly authorised by the denomination to provide religious education on behalf of the denomination;  
*‘recognised religious denomination’* means an approved organisation under the *Births, Deaths and Marriages Registration Act 2017*; and

*‘religious education’* means education in a particular religion as distinct from the study of different religions.

- (2) The principal of a government school may allocate a period of not more than 1 hour each week for students to receive religious education.
- (3) During the period allocated for religious education, a recognised religious denomination may send an authorised representative to provide religious education for students who are members of the denomination.
- (4) A student is not required to attend a religious education class.
- (5) The principal shall comply with the wishes of a student’s parents in relation to whether the student is permitted to attend religious education.
- (6) The principal shall ensure that the educational program at the school continues for students not attending religious education.
- (7) Students attending a religious education class shall be separated from other students at the school while the class is held.

## **78 Complaint about government school**

- (1) The Secretary shall develop and implement a policy for handling complaints about government schools, other than complaints of the type mentioned in Section 67.
- (2) The Secretary shall ensure that each complaint about a government school that, in the Secretary’s opinion, is not frivolous or vexatious, is investigated as soon as practicable.

## PART 10 — NON-GOVERNMENT SCHOOLS

### **79 Non-government schools shall be registered**

- (1) A person shall not operate a non-government school unless it is registered under this Part.

Penalty: \$5,000.

- (2) The proprietor and the principal of a non-government school each commit an offence if the school:

- (a) is not registered under this Part; and
- (b) teaches a child at any year level during school hours.

Penalty: \$2,000.

- (3) The proprietor and the principal of a non-government school each commit an offence if the school:

- (a) is not registered under this Part to provide education at a particular year level; and
- (b) teaches a child at the year level during school hours.

Penalty: \$2,000.

- (4) An offence against this Section is a strict liability offence.

### **80 Application for registration of non-government school**

- (1) A person may apply to the Minister for registration of a non-government school.

- (2) The application shall be:

- (a) made in the approved form;
- (b) accompanied by the prescribed fee; and
- (c) lodged at least 6 months before the start of the school year in which the person proposes to begin operating the school.

- (3) The application shall include the following details:

- (a) the proposed arrangements for the governance and administration of the school, including details of the proposed proprietor;
- (b) the proposed location of the school and the facilities to be provided at the school;
- (c) the name and qualifications of the proposed principal of the school;
- (d) a statement from the proposed principal of the school demonstrating that he or she fully understands and has the ability to comply with the conditions of registration;
- (e) a projection of the minimum number of students to be enrolled at the school and details of the basis on which the projection has been made;
- (f) an operational plan for the school that demonstrates the financial viability of the school;
- (g) the year levels the school proposes to teach;
- (h) the processes the school proposes to employ to monitor educational outcomes for its students; and
- (i) the maximum number of students that the school will accept.

- (4) The Minister may require the person to provide any further information the Minister considers necessary.

**81 Criteria for registration of non-government school**

In order to be registered, a non-government school shall satisfy the following criteria:

- (a) the proposed principal of the school shall demonstrate a full understanding of the conditions of registration and the ability to comply with the conditions;
- (b) the facilities to be provided at the school, shall be of an acceptable standard that will enable the principal to comply with Section 26;
- (c) the school shall be financially viable; and
- (d) the Minister shall be satisfied that:
  - (i) there is sufficient demand for enrolment at the school; and
  - (ii) the registration of the school would not be contrary to the public interest.

**82 Grant of registration to non-government school**

- (1) On receiving the application, the Minister shall request a report from the Secretary on whether the proposed school meets the criteria for registration.
- (2) Where after considering the Secretary's report, the Minister is satisfied that the proposed school meets the criteria for registration, the Minister may grant registration to the school for a period of not longer than 2 years.
- (3) Where after considering the Secretary's report, the Minister is not satisfied that the proposed school meets the criteria for registration, the Minister shall refuse to register the school.

**83 Conditions of registration of non-government school**

A registered non-government school is subject to the following conditions of registration:

- (a) the school shall provide high-quality education to all students enrolled at the school;
- (b) the principal of the school shall not allow extra-curricular teaching or activities to interfere with the teaching of the full approved curriculum;
- (c) the proprietor and principal of the school shall cooperate fully with a school inspection under Section 35 or an assessment under Section 91;
- (d) the proprietor of the school shall develop and implement a complaints policy for the school;
- (e) the proprietor, principal and staff of the school shall comply with this Act; and
- (f) any other conditions specified in the school's certificate of registration.

**84 Application for renewal of registration of non-government school**

- (1) The proprietor of a registered non-government school may apply to the Secretary for renewal of the school's registration.
- (2) The application shall be:
  - (a) made in the approved form;
  - (b) accompanied by the prescribed fee; and
  - (c) lodged at least 3 months before the expiry of the school's current registration.
- (3) The application shall include the following details:

- (a) a copy of the school's current certificate of registration;
  - (b) any proposed changes to the arrangements for the governance and administration of the school, including any proposed change of proprietor;
  - (c) any change since the last registration in relation to:
    - (i) the location of the school;
    - (ii) the facilities to be provided at the school;
    - (iii) the name and qualifications of the principal of the school; or
    - (iv) the maximum number of students that the school will accept;
  - (d) where there has been a change of principal since the last registration, a statement from the current principal demonstrating that he or she fully understands the conditions of registration and has the ability to comply with the conditions;
  - (e) a projection of the minimum number of students that will enrol at the school in the next school year and details of the basis on which the projection has been made;
  - (f) an operational plan for the school that demonstrates the continued financial viability of the school;
  - (g) any proposed change to the year levels that the school proposes to teach; and
  - (h) the processes that the school employs to monitor educational outcomes for its students.
- (4) The Secretary may require the proprietor to provide any further information the Secretary considers necessary.

## **85 Criteria for renewal of registration of non-government school**

In order to have its registration renewed, a non-government school shall satisfy the following criteria:

- (a) the school shall continue to satisfy the criteria mentioned in Section 81; and
- (b) the school shall, during the term of its current period of registration, have:
  - (i) complied with all conditions of registration; and
  - (ii) received a satisfactory assessment under Section 91.

## **86 Grant of renewal of registration of non-government school**

Section 82 applies, with the necessary modifications, to an application for renewal of registration as if it were an application for registration under Section 80.

## **87 Cancellation of registration of non-government school**

- (1) The Minister may, on the recommendation of the Secretary, cancel the registration of a non-government school, if satisfied on reasonable grounds that:
  - (a) a condition of registration has been contravened; or
  - (b) it is in the best interests of the students at that school to do so.
- (2) Before cancelling the registration of a non-government school, the Minister shall give the proprietor of the school a written notice stating:
  - (a) the grounds on which the Minister proposes to cancel the registration;
  - (b) the facts that, in the Minister's opinion, establish the grounds; and

- (c) that the proprietor may, within 14 days after receiving the notice, give the Minister a written response to the notice.
- (3) In deciding whether to cancel the registration, the Minister shall consider any response given under subsection (2)(c).

## **88 Certificate of registration of non-government school**

- (1) The Secretary shall issue a certificate of registration in the approved form to the proprietor of a registered non-government school.
- (2) The certificate of registration shall state:
  - (a) the proprietor and principal of the school;
  - (b) the year levels for which the school is registered to teach;
  - (c) where the school is to be located;
  - (d) the date of the issue of the certificate and the term of the registration;
  - (e) the conditions of registration; and
  - (f) any other prescribed details.
- (3) The proprietor of a registered non-government school, shall give the Secretary written notice of a change in any of the particulars specified in the certificate within 1 month after the change occurs.

Penalty: \$100.

## **89 Register of non-government schools**

- (1) The Secretary shall keep a register of non-government schools.
- (2) The register shall include the details mentioned in Section 88(2).

## **90 Non-government school shall report to Secretary**

- (1) At the end of each half of each school year, the proprietor of a registered non-government school shall submit a report to the Secretary in relation to the half-year.
- (2) The report shall include details of:
  - (a) learning outcomes for students enrolled at the school;
  - (b) the financial situation of the school; and
  - (c) any written complaints received by the school and the way the complaints were handled and resolved.

## **91 Assessment of non-government school**

- (1) To ensure a registered non-government school is complying with its conditions of registration, the Secretary shall arrange for an assessment of the school to be carried out at least once during each period of the school's registration.
- (2) The person carrying out the assessment may require another person to give any assistance reasonably necessary to carry out the assessment.
- (3) The person carrying out the assessment shall give the Secretary a report on the results of the assessment, including an indication of whether the school is complying with the conditions.
- (4) The Secretary shall give the Minister the report.

## **92 Government funding to non-government school**

- (1) The Government may provide funding to a non-government school.



- (2) The Government shall use its best endeavours, within its available resources, to provide funding towards the education of all school-age children at registered non-government schools.
- (3) The Government shall not provide funding towards the education of school-age children at registered non-government schools to an extent that would compromise its ability to provide quality education for school-age children at a government school.



## PART 11 — SPECIAL EDUCATION

### 93 Definitions for Part 11

In this Part:

*‘principle of inclusive education’* means the principle that school-age children who have a disability shall, where practicable, be enrolled in and attend a school, and be given the opportunity to participate together with the other students at the school in the education and extra-curricular activities offered by the school; and

*‘school’* does not include a centre for special education established under Section 95(3).

### 94 Principle of inclusive education

- (1) All schools shall adhere to the principle of inclusive education.
- (2) In determining whether it is practicable for a child with a disability to attend a school, the principal of the school shall have regard to:
  - (a) the extent of the child’s special educational needs;
  - (b) ways in which the school can meet the child’s special educational needs;
  - (c) the likely developmental and learning benefit to the child of being included in the school;
  - (d) the wishes of the child’s parents; and
  - (e) where the child’s parents consent to the principal requesting advice from a health practitioner in relation to the child, the advice of a health practitioner about the extent of the child’s disability and whether it would be in the best interests of the child to be included in the school.

### 95 Provision for students with special educational needs

- (1) A school-age child with a disability shall not be excluded from access to free primary and secondary education on the basis of the disability.
- (2) The Government shall use its best endeavours, within available resources, to ensure that:
  - (a) the principle of inclusive education is implemented;
  - (b) reasonable accommodation of the individual requirements of students with disabilities is provided;
  - (c) students with disabilities receive the support required, within the general education system, to facilitate their effective education;
  - (d) effective individualised support measures are provided to students with disabilities in environments that maximise academic and social development, consistent with the goal of full inclusion; and
  - (e) an adequate number of teachers are trained in the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.
- (3) The Minister shall establish a centre for special education of school-age children with disabilities who cannot attend a school.



## PART 12 — HOME EDUCATION

### 96 Definition for Part 12

In this Part:

*‘responsible parent’* means the parent who makes an application for registration of a child for home education under Section 97, and, if the application is made by 2 parents, means both of those parents.

### 97 Application for registration for home education

- (1) A parent of a school-age child may apply to the Secretary for registration of the child for home education.
- (2) The application shall be made in the approved form.
- (3) If the application is made by one parent and the child has 2 parents, the Secretary shall notify the other parent:
  - (a) of the application; and
  - (b) that the other parent may, within 14 days after receiving the notice, make written submissions to the Secretary about the application.
- (4) In deciding whether to grant registration, the Secretary shall consider any submissions made under subsection (3)(b).

### 98 Grant of registration for home education

- (1) The Secretary may grant the registration of the child for home education for a period of not longer than 2 years, if satisfied that:
  - (a) the home education will not be harmful to the interests of the child; and
  - (b) the conditions of registration will be complied with.
- (2) To obtain the information necessary to decide whether the conditions for registration will be complied with, the Secretary may instruct an authorised person to:
  - (a) inspect any education programs, materials or other records proposed to be used for the home education; and
  - (b) report to the Secretary on the findings of the inspection.
- (3) Where the Secretary is not satisfied that the conditions for registration will be complied with, the Secretary shall refuse to register the child for home education.

### 99 Conditions of registration for home education

The registration is subject to the following conditions:

- (a) the responsible parent shall ensure the child is provided with high-quality education;
- (b) the responsible parent shall document the educational opportunities offered to the child and the strategies used to encourage the child to learn; and
- (c) the responsible parent shall make available for inspection on request by the Secretary or an authorised person any education programs, materials or other records used for home education.

**100 Cancellation of registration for home education**

- (1) The Secretary may cancel the registration of the child, if the Secretary is satisfied on reasonable grounds that the responsible parent has contravened a condition of the registration.
- (2) Before cancelling the registration, the Secretary shall give the responsible parent a written notice stating:
  - (a) the grounds on which the Secretary proposes to cancel the registration;
  - (b) the facts that, in the Secretary's opinion, establish the grounds; and
  - (c) that the responsible parent may, within 30 days after receiving the notice, give the Secretary a written response to the notice.
- (3) In deciding whether to cancel registration, the Secretary shall consider any response given under subsection (2)(c).
- (4) The Secretary shall not cancel the registration, if satisfied that:
  - (a) the responsible parent has demonstrated that the contravention has been rectified and that the parent will comply with the conditions of the registration; or
  - (b) it is not otherwise in the public interest that the registration be cancelled.

**101 Certificate of registration for home education**

- (1) Where the Secretary grants registration in respect of a child, the Secretary shall give the responsible parent a certificate of registration for home education in the approved form.
- (2) The certificate shall state:
  - (a) the name of the child registered for home education;
  - (b) the name of the responsible parent;
  - (c) the address of the home base from which the home education shall be provided;
  - (d) the period of registration;
  - (e) the conditions of registration; and
  - (f) any other prescribed details.

**102 Renewal of registration for home education**

- (1) The responsible parent may apply to the Secretary for renewal of the registration.
- (2) The application shall be made:
  - (a) in the approved form; and
  - (b) at least 1 month before the registration expires.
- (3) Section 98 applies, with the necessary modifications, to an application for renewal of registration as if it were an application for registration under Section 97.

**103 Home education reports**

The responsible parent shall give the Secretary a report about the educational progress of the child once each year.

**104 Home education register**

- (1) The Secretary shall keep a register of children registered for home education.

- (2) The register shall include the details mentioned in Section 101(2).





## PART 13 — REVIEW OF DECISIONS

### 105 Reviewable decisions

- (1) A ‘*decision maker*’, for a reviewable decision, is the person specified in the Table, column 1, opposite the reviewable decision.
- (2) A ‘*reviewable decision*’ is a decision, or a decision to take any action, specified in the Table, column 2.
- (3) An ‘*affected person*’, for a reviewable decision, is a person specified opposite the reviewable decision in the Table, column 3.

Table for Section 105

column 1 decision maker	column 2 reviewable decision	column 3 affected person
Secretary	to issue a certificate of exemption (Section 9(1))	a parent of the child
Secretary	to refuse to issue a certificate of exemption (Section 9(4))	a parent of the child
Secretary	to cancel a certificate of exemption (Section 9(5))	a parent of the child
Board	to reject a person’s application for teacher registration or for renewal or extension of registration (Section 54(2) or (8), or 55(2) or (8))	the person who made the application
Board	to impose or vary a condition on a teacher’s registration or limited authority (Section 57)	the teacher
Board	to suspend a teacher’s full registration, provisional registration or limited authority as disciplinary action for sexual offence charge or conviction of a serious offence (Section 65(b)(i))	the teacher or the teacher’s employer
Board	to cancel the teacher’s full registration, provisional registration or limited authority as disciplinary action for sexual offence charge or conviction of a serious offence (Section 65(b)(ii))	the teacher or the teacher’s employer
Board	to suspend the teacher’s registration, provisional registration or limited authority as a result of an inquiry (Section 72(1)(b))	the teacher or the teacher’s employer
Board	to cancel the teacher’s registration, provisional registration or limited authority as a result of an inquiry (Section 72(1)(c))	the teacher or the teacher’s employer
Minister	to refuse to register a non-government school (Section 82(3))	the proprietor of the school

<b>column 1 decision maker</b>	<b>column 2 reviewable decision</b>	<b>column 3 affected person</b>
Minister	to cancel the registration of a non-government school (Section 87(1))	the proprietor of the school
Principal	that it is not practicable for a child with a disability to attend the school (Section 94(2))	a parent of the child
Secretary	to register or to refuse to register a child for home education (Section 98(1) or (3))	a parent of the child
Secretary	to cancel a child's registration for home education (Section 100(1))	a parent of the child
Minister	a decision made under Section 107(4)	each affected person for the original decision

## 106 Notice of reviewable decision

The decision maker for a reviewable decision, shall give each affected person for the decision a notice specifying the following:

- (a) the decision;
- (b) the reasons for the decision;
- (c) the date of effect of the decision, which shall not be before the date the person receives the notice;
- (d) if the decision maker was the Secretary or a principal:
  - (i) that the person may apply to the Minister for review of the decision; and
  - (ii) that the application shall be made within 28 days after receiving the notice or be accompanied by an application for an extension of time to make the application; and
- (e) if the decision was made by the Minister or the Board, that the person may appeal to the Supreme Court against the decision within 28 days after receiving the notice.

## 107 Review of decision

- (1) An affected person for a reviewable decision made by the Secretary or by a principal may apply to the Minister for review of the decision.
- (2) The application for review shall be made:
  - (a) within 28 days after the affected person receives notice of the decision under Section 106; or
  - (b) within a later time decided by the Minister on application by the affected person.
- (3) The application shall be in writing and shall set out the reasons for the application.
- (4) To decide the review, the Minister shall:
  - (a) affirm the decision;
  - (b) vary the decision; or
  - (c) set aside the decision and substitute a new decision.

**108 Appeal against decision**

- (1) An affected person for a reviewable decision made by the Minister or the Board, may appeal against the decision on a point of law to the Supreme Court.
- (2) The notice of appeal shall be filed within 28 days after the affected person receives notice of the decision under Section 106.
- (3) The notice of appeal shall state fully the grounds on which the appeal is made.
- (4) The appeal does not affect the operation or implementation of the reviewable decision.
- (5) The Court may make an order staying or otherwise affecting the operation or implementation of so much of the decision as the Court considers appropriate to effectively hear and decide the appeal.
- (6) To decide the appeal, the Court shall:
  - (a) affirm the decision; or
  - (b) refer the matter back to the decision maker with directions to reconsider the whole or any specified part of the matter.



## PART 14 — MISCELLANEOUS

### 109 Offences on school premises

(1) In this Section:

*‘school premises’* means land, including a building or structure on the land, occupied by a school.

(2) A person shall not trespass on school premises.

Penalty: \$10,000 fine or imprisonment for 1 year or both.

[subs (2) am Act 11 of 2015 s 3 and Sch Clause 1.1, opn 12 May 2015]

(3) A person who is not a student of the school commits an offence, if the person behaves in an offensive or disorderly way on school premises.

Penalty: \$20,000 fine or imprisonment for 2 years or both.

[subs (3) am Act 11 of 2015 s 3 and Sch Clause 1.2, opn 12 May 2015]

(4) A person commits an offence, if the person:

- (a) is on school premises;
- (b) is directed to leave the premises by a police officer, the principal of a school or a person authorised by the principal; and
- (c) fails to leave the premises in accordance with the direction.

Penalty: \$20,000 fine or imprisonment for 2 years or both.

[subs (4) am Act 11 of 2015 s 3 and Sch Clause 1.3, opn 12 May 2015]

(5) An offence against this Section is a strict liability offence.

### 110 Providing false and misleading information

(1) In this Section:

*‘misleading information’* means information that is misleading in a material particular because it:

- (a) does not include relevant information; or
- (b) includes misinformation.

(2) A person commits an offence, if the person:

- (a) gives misleading information to another person who is exercising powers or performing functions under this Act;
- (b) knows the other person is acting in an official capacity; and
- (c) knows the information is misleading.

Penalty: \$10,000 and 12 months imprisonment.

(3) A person commits an offence, if the person:

- (a) gives a document containing misleading information to another person who is exercising powers or performing functions under this Act;
- (b) knows the other person is acting in an official capacity; and
- (c) knows the document contains misleading information.

Penalty: \$10,000 and 12 months imprisonment.

(4) Subsection (3) does not apply if the person, when giving the document:

- (a) draws the misleading aspect of the document to the other person’s attention; and
- (b) to the extent to which the person can reasonably do so, gives the other person the information necessary to correct the document.

**111 Protection from liability**

(1) In this Section:

*‘exercise’*, of a power, includes the purported exercise of the power; and  
*‘performance’*, of a function, includes the purported performance of the function.

(2) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Act.

(3) Subsection (2) does not affect any liability the Republic would, apart from that subsection, have for the act or omission.

**112 Approved forms**

The Minister may approve forms for this Act.

**113 Secretary may appoint authorised persons**

The Secretary may appoint officers of the Department to be authorised persons for this Act.

**114 Regulations**

(1) The Cabinet may make regulations under this Act.

(2) Without limiting subsection (1), the regulations may provide for the following matters:

- (a) prescribing fees for services, other than fees that are prohibited under Sections 59 and 73;
- (b) fixing remuneration for Board members;
- (c) fixing remuneration for members of committees appointed under Section 70(1)(b);
- (d) any other matter necessary or convenient for giving effect to this Act.

## PART 15 — REPEAL AND TRANSITIONAL PROVISIONS

### 115 Definitions for Part 15

In this Part:

*‘commencement date’* means the day this Act comes into force;

*‘current school year’* means the school year in which this Act comes into force;  
and

*‘next school year’* means the school year immediately after the current school year.

### 116 Repeal

The following are repealed:

- (a) *Compulsory Education Ordinance 1921-1967*;
- (b) all subsidiary legislation made under the Ordinance.

### 117 Person teaching before commencement date

- (1) A person who is teaching at a school immediately before the commencement date may continue to teach for up to 12 months after the commencement date without being registered or having a limited authority to teach.
- (2) Despite Section 55(1)(a), until 1 January 2015 a person may be granted provisional registration if the person:
  - (a) was teaching at a school immediately before the commencement date;
  - (b) is a Nauruan citizen;
  - (c) does not hold but is studying towards the attainment of a recognised teaching qualification; and
  - (d) is of good character.

### 118 Appointment of the first Board

[s 118 omitted by the Law Revision Commission under powers authorised by Act 10 of 2019]

### 119 Transitional operation of non-government schools

- (1) A non-government school that is operating immediately before the commencement date:
  - (a) may continue to operate without registration for the duration of the current school year; and
  - (b) is subject to Part 10 from the beginning of the next school year.
- (2) Despite Section 80(2)(c), in order to comply with Part 10 from the beginning of the next school year, the proprietor of the school may apply for registration up to 2 months before the start of the next school year.

### 120 Transitional provision for curriculum

- (1) The Minister shall comply with Section 22(3) before the start of the next school year.

- (2) Until the Minister complies with Section 22(3), requirements to adhere to approved curriculum do not apply.

## **121 Transitional regulations**

[s 121 omitted by the Law Revision Commission under powers authorised by Act 10 of 2019]



# Education Regulations 2012

## TABLE OF PROVISIONS

<i>Regulation</i>	<i>Title</i>
1	Citation
2	Commencement
3	Definitions
4	Fee for application for registration of non-government school
5	Fee for application for renewal of registration of non-government school
6	Partial refund on refusal of application
7	Remuneration for Board members
	SCHEDULE — FEES



# Education Regulations 2012

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## TABLE OF AMENDMENTS

The Education Regulations 2012 SL 2 were notified and commenced on 25 June 2012 (GN No 342/2012; Gaz 85/2012).

Amending Legislation	Notified	Date of Commencement
Education (Amendment) Regulations 2013 SL 4	5 April 2013	6 April 2013
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021



The Cabinet makes the following Regulations under Section 114 of the *Education Act 2011*:

**1 Citation**

These Regulations may be cited as the *Education Regulations 2012*.

**2 Commencement**

These Regulations commence on the day they are notified in the Gazette.

**3 Definitions**

In these Regulations:

*‘new application fee’* means the fee specified in the Schedule, column 2 opposite item 1;

*‘registration fee’* means the fee specified in the Schedule, column 2 opposite item 3; and

*‘renewal application fee’* means the fee specified in the Schedule, column 2 opposite item 2.

**4 Fee for application for registration of non-government school**

For Section 80(2)(b) of the Act, the fee for an application for registration of a non-government school is the sum of:

- (a) the new application fee; and
- (b) the registration fee.

**5 Fee for application for renewal of registration of non-government school**

For Section 84(2)(b) of the Act, the fee for an application for renewal of registration of a non-government school is the sum of:

- (a) the renewal application fee; and
- (b) the registration fee.

**6 Partial refund on refusal of application**

- (1) A person who has made an application for registration or renewal of registration of a non-government school, is entitled to a refund of the registration fee paid by the person if:
  - (a) the Minister has refused the person’s application; and
  - (b) the person’s rights of review and appeal under Part 13 of the Act in relation to the decision to refuse the application have been exhausted.
- (2) For subregulation (1)(b), a person’s rights of review under Part 13 of the Act have been exhausted if:
  - (a) 28 days have elapsed since the person received notice of the decision, and the person has not made an application for review of the decision;or

- (b) the person's application for review of the decision has been considered by the Minister and the Minister has affirmed the decision.
- (3) For subregulation (1)(b), a person's rights of appeal under Part 13 of the Act have been exhausted if:
  - (a) 28 days have elapsed since the person received notice of the decision, and the person has not filed a notice of appeal; or
  - (b) the person's appeal against the decision has been considered by the Supreme Court and the Court has affirmed the decision.
- (4) Subregulation (5) applies if:
  - (a) a person has received a refund of the registration fee paid by them; and
  - (b) the person has been granted an extension of time under Section 107(2)(b) for making an application for review of the decision to refuse to register the school; and
  - (c) the Minister has set aside the decision.
- (5) The person shall pay the registration fee again before the school can be registered.

## **7 Remuneration for Board members**

A Board member is to be paid \$75 for each meeting of the Board that the member attends.

[reg 7 subst SL 4 of 2013 r 3 and Sch Clause [1], opn 6 Apr 2013]

## SCHEDULE

*[Regulations 4 and 5]*

### FEES

Column 1	Column 2
Item	Fee
1. new application fee	\$250
2. renewal application fee	\$200
3. registration fee	\$400 per school year for each year level for which the school is applying to be registered to teach

#### *Example for the Schedule*

*If a non-government school is applying for a 2-year renewal of its registration to teach year levels 7, 8 and 9, the fee payable under regulation 5 is \$2,600, being the renewal application fee, and \$400 x 3 year levels x 2 years (the registration fee).*

