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Education Act 1983 (Consolidated to No 13 of 1995)

**INDEPENDENT STATE OF PAPUA NEW GUINEA.**

[xxxiv] Education Act 1983,

Being an Act to provide for the National Education System and to make provision—

(a) for—

(i) national responsibility; and

(ii) provincial responsibility,

in the field of education, having regard to the *Organic Law on Provincial Governments and Local-level Governments*; and

(b) for compliance with Section 52 of that Law,

and for related purposes.

**PART I.—PRELIMINARY.**

**1. Matter of national interest.**

For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Government*, it is declared that this Act relates to a matter of national interest.

**2. Interpretation.**

In this Act, unless the contrary intention appears—

"appointment", in relation to the appointment of teaching staff at a school, includes an acting appointment made under Section 71 of the *Teaching Service Act* 1988;

"approved plan for education" means a plan for the establishment, maintenance and development of schools and other educational facilities and services—

(a) in the country as a whole; or

(b) as approved under—

(i) Division II.2; or

(ii) a provincial law;

"Board of Studies" means a body established by the Minister for the purposes of Section 27(1);

"church" includes mission;

"the commencement date" means 1 July 1983, being the date on which the *Education Act* 1983 came into force;

"the Commission" means the Teaching Service Commission;

"the Commission for Higher Education" means the Commission established under the *Higher Education Act* 1983;

"community school" means a school established under this Act for the purpose of providing community school education;

"community school education" means full time education in accordance with curricula determined under Section 27;

"district education plan" means the district education plan under Section 8;  
"education agency" means the State, a Provincial Government or an organization or person recognized under Division III.5 or under a provincial law as an education agency for the purposes of the National Education System and of this Act;

"the education agency" in relation to a school means the State, a Provincial Government or an organization or person conducting the school;

"education authority" means an authority specified in Section 5;

"Education Board" means, in relation to—

- (a) the National Capital District—the National Capital District Education Board established under Section 31; and
- (b) a province that does not have in force a provincial law relating to education matters—the Provincial Education Board established under Section 31; and
- (c) any other province—the Provincial Education Board established under a provincial law,

and does not include the National Education Board except where a declaration has been made under Section 19 declaring a school or class of schools to be a national institution or national institutions;

"the Education Gazette" means the publication known as the *Papua New Guinea Education Gazette* published under the authority of the Departmental Head;

[lxxxv]"elementary education", in relation to a student, means a full-time education comprising a preparatory class and Grades 1 and 2 in accordance with Section 27 and in a language spoken by the student;

"exempt national institution" means a member community school, a member vocational centre or a member provincial high school within the National Capital District;

"fees" means book, boarding, tuition or other fees connected with education matters and includes fees for capital or recurrent costs;

"governing body" in relation to a school means—

- (a) in the case of a primary school, community school or vocational centre—the Board of Management of the school or centre established by the education agency conducting the school or centre and approved by the Education Board under Subdivision III.6.A; and
- (b) in the case of a high school other than a national high school—the Board of Governors established by the education agency conducting the school and approved by the Education Board under Subdivision III.6.B; and
- (c) in the case of a national institution other than an exempt national institution—the Governing council established by the education agency conducting the national institution and approved by the National Education Board under Subdivision III.6.C; and

(d) in the case of a provincial institution—a governing body recognized under a provincial law; and

(e) in the case of a national institution declared under Section 19—the governing body established in the notice of declaration;

"high school" means a school established under this Act for the purpose of providing high school education;

"high school education" means full time education in accordance with curricula determined under Section 27;

"identity" means the character of the school as determined by the agency responsible for the school and includes the Statement of Philosophy as published from time to time by the agency in the Education Gazette;

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"Local-level Government body" means a Local-level Government as specified in Section 26(3) of the *Organic Law on Provincial Governments and Local-level Governments*;

[lxxxvii]"lower primary education" means a level of education consisting of Grades 3 to 5;

[lxxxviii]"lower secondary education" means a level of education consisting of Grades 9 and 10;

"member of the Teaching Service" includes an auxiliary member and an associate auxiliary member of the Teaching Service;

"member school" means a school that is recognized under Part IV. or under a provincial law;

"the National Education Board" means the National Education Board established by Division III.1;

"national education plan" means the national education plan established under Section 7;

"the National Education System" means the system described in Section 3;

"national high school" means a school providing post provincial high school education;

"national institution" means—

(a) a teachers' college; and

(b) a technical college; and

(c) a national high school; and

(d) a member school that is declared by the Minister to be a national institution under the authority of the National Education Board; and

(e) all schools in the National Capital District;

"Papua New Guinea Teachers' Association" means the body by that name registered under the *Industrial Organizations Act 1962*;

"permitted school" means a school other than a school recognized under Part IV. or a provincial law;

[lxxxix]"preparatory class" means a class wherein a student first receives formal instruction in his common local dialect;

"primary school" means a school established under this Act for the purpose of providing primary school education;

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"primary school education" means full-time education in accordance with curricula determined under Section 27 for six years from Grade 3 to Grade 8;

"Provincial Education Board" means a Provincial Education Board established under Subdivision III.3.B;

"provincial education plan" means a provincial education plan—

- (a) under Section 7(4); or
- (b) approved under a provincial law;

"provincial high school" means a school providing high school education that is—

- (a) by direction of the Minister under the authority of a Provincial Government; or
- (b) within the National Capital District;

"provincial high school education" means full-time education given in accordance with curricula determined under Section 27;

"provincial institution" means primary, community and village self-help schools in a province and includes a school that is, by direction of the Minister, under the authority of a Provincial Government;

"the Register of Teachers" means the Register of Teachers kept under Part VI.;

"religious institution" means—

- (a) an institution in which the instruction is wholly or mainly of a religious or doctrinal nature; or
- (b) an institution conducted by a church for the exclusive training of its own personnel;

"reserved teaching position" means a teaching position in a school reserved under Section 102;

"school" includes a college and means an institution for providing—

- (a) pre-school education; or
- (b) community school education; or

[xcil](ba) elementary school education; or

- (c) primary school education; or

[xciii](ca) secondary school education; or

- (d) high school education; or
- (e) teacher education; or
- (f) technical education; or
- (g) vocational training; or
- (h) correspondence education,

or all or any of them, and includes a self-help school and all other types of education institutions established for providing education at all levels, but does not include—

- (i) a religious institution; or

- (j) an institution conducted by the State that is not placed by the State under the authority of the Department;

<sup>[xciii]</sup>"secondary school" means a school established under this Act to provide secondary school education;

<sup>[xciv]</sup>"secondary school education" means fulltime education in accordance with curricula determined under Section 27 for four years from Grade 9 to Grade 12;

"student" includes a teacher attending a course of instruction at a school;

"teacher" means a person whose name is for the time being entered or provisionally entered in the Register of Teachers;

"teachers' college" means a college or institution that is conducted solely or mainly for the purpose of educating persons to teach in schools, but does not include—

- (a) the University of Papua New Guinea; or
- (b) the Papua New Guinea University of Technology; or
- (c) a college or institution that is conducted solely or mainly for the purpose of training persons to give religious or doctrinal instruction;

"the Teaching Service" means the Teaching Service provided for by the *Teaching Service Act* 1988;

"the Teaching Service Commission" means the Teaching Service Commission established under the *Teaching Service Act* 1988;

"technical college" means an institution that is conducted principally for the provision of vocational, secretarial or technical education, the standard and complexity of which, in the opinion of the Departmental Head is such as to warrant its being regarded as a technical college rather than a technical school, but does not include—

- (a) the University of Papua New Guinea; or
- (b) the Papua New Guinea University of Technology; or
- (c) a college or institution conducted by the State that is not placed by the State under the authority of the Department; or
- (d) a teachers' college;

"technical education" means education in accordance with curricula determined under Section 27;

"technical school" means an institution that is conducted solely for the provision of vocational or technical education or that provides such a volume of vocational or technical education as, in the opinion of the Departmental Head, warrants its being regarded as a technical school for the purposes of this Act, but does not include—

- (a) a technical college; or
- (b) the University of Papua New Guinea; or
- (c) the Papua New Guinea University of Technology; or
- (d) a college or institution conducted by the State that is not placed by the State under the authority of the Department; or

- (e) a teachers' college; or
- (f) a private institution that, in the opinion of the Departmental Head—
  - (i) is conducted (otherwise than by the State) for private purposes such as those of an employer; or
  - (ii) is not open to the public; or
  - (iii) is not intended to give qualifications for public recognition; or
- (g) a vocational centre;

"this Act" includes the regulations;

<sup>[xcv]</sup>"upper primary education" means a level of education consisting of Grades 6 to 8;

<sup>[xcvii]</sup>"upper secondary education" means a level of education consisting of Grades 11 and 12;

"vocational centre" means an institution established under this Act for the purpose of providing vocational training;

"vocational training" means educational training designed to fit and equip students to carry out activities within the local environment in a meaningful and satisfying way as determined—

- (a) in a province that has in force a provincial law relating to education matters—by the authority empowered under that law; and
- (b) in the National Capital District or a province that does not have in force a provincial law relating to education matters—by the Minister.

## **PART II.—THE NATIONAL EDUCATION SYSTEM.**

### ***Division 1.—Administration.***

#### **3. National Education System.**

(1) Subject to Section 42 of the *Organic Law on Provincial Governments and Local-level Governments* there shall be a National Education System that shall be administered by the National Government and by Provincial Governments.

(2) The National Education System shall consist of—

- (a) a national component comprising national institutions; and
- (b) provincial components comprising member schools other than national institutions in each province,

with which is associated the Teaching Service regulated by the Teaching Service Commission.

(3) The National Education System shall be administered in accordance with, and for the objects and purposes expressed in—

- (a) this Act; and
- (b) any other laws of the Parliament relating to education matters; and
- (c) provincial education laws in relation to a matter within Section 42 of the *Organic Law on Provincial Governments and Local-level Governments*; and
- (d) . . . [Omitted]

#### **4. Objects of the National Education System.**

(1) Bearing in mind the National Goals and Directive Principles of the Constitution, and subject to a provincial law and this section, the objects and purposes of the National Education System, by means of the maximum involvement and co-operative effort by persons and bodies interested in education in the country (including the State, the teaching profession, Provincial Governments, Local-level Governments, churches and the community as a whole) and the maximum utilization of the resources available from all sources are—

- (a) for the integral human development of the person; and
- (b) to develop and encourage the development of a system of education fitted to the requirements of the country and its people; and
- (c) to establish, preserve and improve standards of education throughout the country; and
- (d) to make the benefits of such education available as widely as possible; and
- <sup>[xcviii]</sup>(e) to make education accessible to the poor and the physically, mentally and socially handicapped as well as to those who are educationally disadvantaged, as far as this can be done by legislative and administrative measures, and in such a way as to foster among other things a sense of common purpose and nationhood and the importance and value of education at all its various levels.

(2) In achieving the objects and purposes referred to in Subsection (1)—

- (a) the right of parents to obtain the education which they wish for their children; and
- (b) the desirability of making due allowance for reasonable diversity of educational methods, provided that standards of educational achievement are not sacrificed; and
- (c) the right to define, develop and preserve identity and character of schools of a particular nature, whether of a religious or other nature (not being based on distinctions of race or colour or other criteria unacceptable in a democratic society); and
- (d) the basing of education in the system on both noble traditions and Christian principles and the place of religious instruction as an integral part of the education system; and
- (e) the role of education agencies as partners in the system,

are and shall be, to such extent as is reasonably practicable and not inconsistent with the basic aims of the National Education System, specifically recognized.

(3) This Act does not restrict or authorize the making of regulations restricting the giving of religious and doctrinal instruction in schools, but—

- (a) a school within the National Education System is not entitled to exclude a student solely on the grounds of religious or doctrinal affiliation; and
- (b) a child in a school within the National Education System shall not be permitted to attend any religious or doctrinal instruction contrary to the formally expressed or written directions of his parents or guardians; and
- (c) the governing body of each school within the National Education System shall, if requested, permit suitable and reasonable arrangements to be made for the students of all denominations attending the school to receive religious

or doctrinal instruction in the doctrines of their own beliefs, provided that such arrangements are practicable and without interference to the normal conduct of non-religious and non-doctrinal teaching in the school.

- (4) The general principles set out in Subsections (1), (2) and (3)—
  - (a) are the principles to be observed by all education authorities in the administration of the National Education System and this Act, and in the conduct of schools within the System; and
  - (b) do not affect the right of an education authority under this Act to impose and collect—
    - (i) fees in relation to students attending a school; or
    - (ii) different fees in relation to different students or different classes of students or in relation to different schools.

## **5. Administration of the National Education System.**

The administration of this Act and of the National Education System is vested, in the manner and to the extent set out in this Act and any other law relating to education, in the following education authorities:—

- (a) the Minister; and
- (b) the National Education Board; and
- (c) the Departmental Head; and
- (d) the Teaching Service Commission; and
- (e) Provincial Governments; and
- (f) Education Boards; and
- (g) Local-level Governments; and
- (h) education agencies; and
- (i) the governing bodies of member schools.

## **6. Reference of certain questions to Head of State.**

(1) Subject to Subsection (3), if at any time there arises a dispute or difference of opinion between any two or more education authorities concerning the administration of the National Education System such that its resolution is not otherwise provided for by way of appeal or otherwise, any of those authorities may, with the approval of the Minister, refer the question to the Head of State for decision.

(2) The decision of the Head of State, acting on advice, in relation to a dispute or difference of opinion referred to in Subsection (1) is final and shall be carried into effect by all persons and bodies concerned.

(3) Where a dispute or difference of opinion arises between any two or more education authorities concerning a matter for which a Provincial Government has jurisdiction by virtue of Division III.3 of the *Organic Law on Provincial Governments and Local-level Governments* and there is no provision otherwise for resolving the dispute or difference of opinion, it shall be resolved in accordance with a provincial law.



(4) In the case of a dispute or difference of opinion where one of the parties involved is the Minister and the matter is such that its resolution is not otherwise provided for by way of appeal, the other party may appeal to the National Court.

(5) This section does not apply to or in respect of the terms and conditions of appointment to, and employment and service in, the Teaching Service.

(6) Where a dispute or difference of opinion arises between the National Government and a provincial government in relation to education matters, it shall be settled in accordance with Section 118 of the *Organic Law on Provincial Governments and Local-level Governments*.

### ***Division 2.—Approved Plans for Education.***

#### **7. National education plan.**

- (1) There shall be a national education plan comprising—
  - (a) the national component, which includes the education plan for—
    - (i) the National Capital District; and
    - (ii) the establishment, maintenance and development of national institutions and education facilities; and
  - (b) provincial components which include the approved education plan in each province.
- (2) The national component of the national education plan—
  - (a) shall make provision for taking into account the effect of provincial components or any part of them; and
  - (b) may provide for the recommendation of grants-in-aid for provincial components to achieve the goals embodied in the approved provincial education plan.

(3) The national component of the national education plan shall be determined by the Head of State, acting on advice, after receiving a report and recommendations from the National Education Board and may in similar manner be extended, amended or replaced.

(4) Where a province does not have in force a provincial law relating to education matters, the provincial component of the national education plan shall be determined by the Provincial Executive Council after receiving a report and recommendations from the Provincial Education Board and may in similar manner be extended, amended or replaced.

#### **8. National Capital District education plan.**

(1) There shall be, for the National Capital District, a district education plan for the establishment, maintenance and development of member community schools, vocational centres and provincial high schools and for other education facilities and services in the National Capital District.

(2) The district education plan shall be drawn up by the National Capital District Education Board and be subject to approval, from time to time, by the National Education Board.

(3) Approval under Subsection (2) shall not be granted where the district education plan does not conform to the national education plan, and where approval is not granted for this reason the Head of State, acting on advice, may direct the National Education Board to amend or replace the plan.

## **9. Development, etc., in accordance with approved plans.**

(1) This section applies to national institutions and to those provinces that do not have in force a provincial law relating to education matters.

(2) An education agency shall not establish, maintain or develop schools or other education facilities or services or, where appropriate, approve or authorize the establishment, maintenance or development of schools or other education facilities or services in a manner inconsistent with an applicable approved plan.

(3) A school or education facility or service established, maintained or developed in a manner inconsistent with an applicable approved plan shall, where the Minister or, in a province where the provisions of Section 7(4) have been applied, the Provincial Executive Council orders, be deemed not to be or cease to be, as the case requires, part of the National Education System and any benefits accruing in respect of it shall not be available until the Minister or the Provincial Executive Council, as the case may be, certifies that the school, education facility or service has been brought into consistency with the approved plan.

## **PART III.—GENERAL ADMINISTRATION OF THE NATIONAL EDUCATION SYSTEM.**

### ***Division 1.—The National Education Board.***

#### **Subdivision A.—Constitution, etc.**

## **10. Constitution of the National Education Board.**

(1) A National Education Board for Papua New Guinea is hereby established.

(2) Subject to this section, the National Education Board shall consist of the Departmental Head and the following members appointed by the Minister—

- (a) three members to represent the views and interests of the State, including one member to represent the State's interest in higher education;
- (b) subject to Subsection (3), four members appointed from a panel nominated by the Premiers' Council to represent the views and interests of Provincial Governments;
- (c) two members appointed from a panel nominated by the Papua New Guinea Teachers' Association to represent the interests of teachers;
- (d) three members appointed from a panel nominated by an association or by associations jointly, recognized by the Minister as representing the interests of churches;
- (e) two members appointed from a panel nominated by an association or by associations jointly, recognized by the Minister as representing business and civic interests in the country;
- (f) one member to represent higher education.

(3) In appointing members under Subsection (2)(b), the Minister shall take into consideration—

- (a) the advisability of regional representation; and
- (b) the knowledge of education matters of the proposed appointee.

(4) A person who is or becomes—

- (a) a member of the Parliament; or
- (b) a member of a Provincial Government; or
- (c) a member of a body established in pursuance of Section 4(4) (*National Capital District*) of the Constitution to govern the National Capital District,

is not eligible to be or to remain a member of the National Education Board.

(5) In the event of a failure on the part of an association or associations referred to in Subsection (2)(c), (d) or (e) to nominate a panel in accordance with those paragraphs within, in the opinion of the Minister, a reasonable period after having been requested by him to do so, the Minister may, of his own motion, make the necessary appointment or appointments for the purposes of that subsection.

(6) If at any time there is, in the opinion of the Minister, no association or associations adequately representing an interest referred to in Subsection (2)(c), (d) or (e), the Minister may, of his own motion, make the necessary appointment or appointments for the purposes of that subsection.

#### **11. Tenure of office of members representing interest of the State.**

The members of the National Education Board referred to in Section 10(2)(a) hold office during the pleasure of the Minister.

#### **12. Tenure of office of members representing other than State interests.**

(1) Subject to this Division, a member of the National Education Board referred to in Section 10(2)(b), (c), (d), (e) or (f) holds office for a period of three years.

(2) Where in relation to the office of a member appointed under Section 10(2)(b), (c), (d), (e) or (f) a casual vacancy occurs, the person appointed to be the alternate to the member shall be deemed to be appointed to fill the vacancy and shall, subject to this Division, hold office for the balance of the term of office of the member in whose place he was appointed.

#### **13. Vacation of office.**

A member of the National Education Board shall be deemed to have vacated his office—

- (a) if his appointment is terminated by the Minister under this Act; or
- (b) if he becomes a person referred to in Section 14; or
- (c) if he resigns his office in writing addressed to the Minister and the resignation is accepted by the Minister; or
- (d) if he is absent, except on leave granted by the Board, from three consecutive meetings of the Board; or

- (e) if, being a person appointed under Section 10(2)(b), (c), (d), or (e), the body referred to in the provision under which he was appointed requests that the appointment be terminated.

#### **14. Ineligibility.**

A person who—

- (a) is an insane person or a person of unsound mind within the meaning of any law relating to the person, or property of persons, of unsound mind; or
- (b) has been convicted of an offence punishable under a law by death or imprisonment for one year or longer, and as a result of the conviction is subject to be sentenced to death or imprisonment, is under sentence of death or is undergoing imprisonment, or is under bond to appear for sentence if called on,

is not eligible to be or to continue to be a member of the National Education Board.

#### **15. Alternate members.**

(1) For each member of the National Education Board (other than the Departmental Head) an alternate member shall be appointed in the same way and subject to the same conditions as the member for whom he is the alternate.

(2) In the absence from the country or the inability to act of a member of the National Education Board (other than the Departmental Head), the alternate member has and may exercise all his powers, functions, duties and responsibilities.

#### **16. Executive Officer.**

(1) The Departmental Head shall make provision for an Executive Officer to the National Education Board, which shall be a position in the Public Service.

(2) The Executive Officer has and shall perform such functions and duties as are prescribed or directed by the Departmental Head and subject to any direction of the Departmental Head, as are allocated to him by the National Education Board.

#### **17. Functions, etc.**

- (1) Subject to this Act, the functions of the National Education Board are—
  - (a) after consultation with Provincial Governments, to advise the Minister on the national education plan in accordance with Section 7 for the development of the National Education System; and
  - (b) to supervise the implementation of the national component of the approved plan; and
  - (c) to prepare and submit to the Minister a programme for the financial support of the national education plan; and
  - (d) to advise and make recommendations to the Minister on such matters relating to education as he refers to it, and on such other matters relating to education as to it seem proper; and
  - (e) to advise Provincial Governments, the Teaching Service Commission, Education Boards and education agencies on any matter affecting the

National Education System, the efficiency of schools or the welfare of teachers; and

- (f) to allocate quotas of students to national institutions, other than exempt national institutions; and
- (g) to establish national criteria for the selection of students to attend high schools and national institutions; and
- (h) to approve, in accordance with this Act, the membership and functions of governing bodies for national institutions, other than exempt national institutions; and
- (i) in relation to national institutions and provincial institutions in a province that does not have in force a provincial law relating to education matters and subject to such conditions and limitations as are laid down by the Minister, where it considers in any particular case that it is necessary to do so—
  - (i) to impose fees on the parents or guardians of students attending those schools and to direct the education authority responsible for those schools to collect fees so imposed for payment into the authority's funds for that purpose; or
  - (ii) in a case where fees are not imposed under Subparagraph (i) to determine the limits within which and the conditions subject to which fees may be imposed and charged by an education authority in respect of those schools for which that education authority is responsible; and
- (j) with due regard to the expressed wishes of teachers and education agencies concerned, to have such powers and responsibilities in relation to the—
  - (i) appointment and promotion; and
  - (ii) transfer; and
  - (iii) discipline,of members of the Teaching Service in national institutions (other than exempt national institutions) in accordance with the *Teaching Service Act* 1988; and
- (k) to hear and determine appeals from other education authorities in such cases and subject to such limitations and conditions as are prescribed by or under this Act or any national or provincial law relating to education matters; and
- (l) to hear and determine appeals in cases where the governing body of a national institution (other than an exempt national institution) expels a student or terminates the studies of a student for academic reasons; and
- (m) such other functions in relation to the National Education System as are delegated to it by the Minister or the Departmental Head or as are prescribed by or under this Act or any other national or provincial law relating to education matters; and
- (n) any other functions that are necessary or convenient for carrying out, or which are ancillary to, the functions set out in this subsection.

(2) In the exercise and performance of its powers and functions, the National Education Board shall, as appropriate, consult and co-operate with, and tender advice to,

Provincial Governments, Education Boards, education agencies, the Commission for Higher Education and the Teaching Service Commission on all matters in which they or any of them have common interests.

### **18. Responsibilities, etc.**

(1) In addition to such duties and responsibilities as are imposed on it by or under this Act or any other law relating to education matters, the National Education Board has the following duties and responsibilities:—

- (a) to devise means for effecting economies and promoting efficiency in the administration of the National Education System;
- (b) to exercise a critical oversight of the functions of the National Education System;
- (c) to maintain a comprehensive and continuous system of measuring and checking the economic and efficient working of the National Education System;
- (d) to approve standard practices and instructions for carrying out recurring work of a clerical, administrative, recording or reporting nature where such work is required for the operation of this Act or the System as a whole.

(2) If it thinks fit, the National Education Board may forward its views on any matter referred to in Subsection (1) to the Minister.

(3) This section does not prevent the National Education Board from taking any other action in relation to a matter not referred to in Subsection (1) that is otherwise within its competence under this Act or any other law.

### **19. Powers in relation to national institutions.**

(1) The Minister may, acting with and in accordance with, the advice of the National Education Board and, in the case of a provincial institution, with the written approval of the appropriate Provincial Government, by notice in the National Gazette, declare a school or class of schools to be a national institution or national institutions.

(2) Where a school or class of schools has been declared under Subsection (1) to be a national institution or national institutions, the National Education Board shall exercise all the powers, functions, duties and responsibilities in relation to that institution or institutions as are prescribed under this Act or any other law relating to education matters.

(3) Where a school has been declared under Subsection (1) to be a national institution, the Minister shall declare the governing body to be—

- (a) a Board of Management; or
- (b) a Board of Governors; or
- (c) a Governing Council,

and the education agency for the national institution shall establish the governing body in accordance with the direction of the Minister.

### **20. Annual report.**

The National Education Board shall, as soon as practicable after 31 March in each year, furnish to the Minister for presentation to the Parliament, a report on the operations of the Board, this Act and the National Education System during the year ending on the preceding 31 December, and recommending any changes in legislation or administration that to it seem necessary or desirable for improving the operation or achieving the objects of this Act or the National Education System.

### **Subdivision B.—Procedure, etc.**

#### **21. Chairman and Deputy Chairman.**

- (1) The Departmental Head is the Chairman of the National Education Board.
- (2) The members of the National Education Board shall elect one of their number to be the Deputy Chairman of the Board during the pleasure of the Board.
- (3) In the event of the absence or inability to act of the Chairman, the Deputy Chairman has, and may exercise, all the powers and functions of the Chairman.

#### **22. Meetings of National Education Board.**

- (1) The National Education Board shall meet at least four times in each year which commences on 1 January.
- (2) Subject to Subsections (3) and (4), a meeting of the National Education Board shall be convened by the Chairman by written notice to the other members of the Board, and shall be held at a time and place specified in the notice.
- (3) The Minister may, by written notice to each member, direct that a meeting be held at a time and place specified in the notice.
- (4) The Chairman shall, within six weeks after receiving a request to do so from not less than four members of the National Education Board, convene a meeting of the Board.

#### **23. Procedure at meetings.**

- (1) At meetings of the National Education Board—
  - (a) nine is a quorum; and
  - (b) the Chairman shall preside at all meetings at which he is present; and
  - (c) in the absence of the Chairman the Deputy Chairman shall preside and in the absence of the Chairman and the Deputy Chairman, the members present shall elect one of their number to preside; and
  - (d) all matters shall be decided by a majority of votes of the members present and voting; and
  - (d) the member presiding has a deliberative and, in the event of an equality of votes, also a casting vote.
- (2) Subject to this Act the procedure at meetings of the National Education Board shall be as the Board determines.
- (3) The National Education Board shall cause minutes of its proceedings to be recorded and kept.

## **24. Committees of National Education Board.**

- (1) The National Education Board shall appoint—
  - (a) a professional committee for each class of national institution other than exempt national institutions for which it is responsible; and
  - (b) such other committees as the Board thinks fit.
- (2) A committee established under Subsection (1)(a) shall include representatives of—
  - (a) the Department responsible for education matters; and
  - (b) the University of Papua New Guinea or the University of Technology; and
  - (c) education agencies (other than the State) conducting the class of institution; and
  - (d) the teaching staff of the national institution; and
  - (e) the association referred to in Section 10(2)(c); and
  - (f) such other interests as the National Education Board thinks appropriate.
- (3) Subject to Subsection (2), a committee shall consist of such member or members of the National Education Board and such other person or persons (if any) as the Board approves.
- (4) The functions of a committee established under Subsection (1)(a) are, in relation to the class of national institution for which it is responsible, to advise the National Education Board on—
  - (a) the need for the development of national institutions and associated facilities; and
  - (b) the co-ordination of the work of the national institutions and associated facilities; and
  - (c) the standards of admission; and
  - (d) the maintenance and improvement of courses and facilities; and
  - (e) the tenure and appointment of staff; and
  - (f) such other matters as are referred to the committee by the Board.
- (5) A committee established under Subsection (1)(b) shall have such functions and include such representatives as the National Education Board thinks fit.
- (6) The Chairman of the National Education Board shall appoint a chairman for each committee of the Board.
- (7) The procedures of a committee shall be as determined by the National Education Board, or, in so far as they are not determined by the Board, decided by the Committee.
- (8) A committee shall cause minutes of its proceedings to be recorded and kept.

## **25. Delegation to National Education Board.**

The Departmental Head may, by instrument, delegate to the National Education Board, or to any person all or any of his powers and functions (except this power of delegation or any power or function held by him under delegation) under this Act or any other law relating to education matters.



## **26. Delegation by National Education Board.**

The National Education Board may, by instrument, delegate to—

- (a) a committee of the Board; or
- (b) an Education Board; or
- (c) a Provincial Government; or
- (d) the governing body of a national institution,

all or any of its powers or functions (except this power of delegation) under this Act or any other law relating to education matters.

### ***Division 2.—General Responsibilities, etc.***

## **27. Responsibilities of Minister.**

(1) Subject to Subsections (3) and (4), the Minister shall, after considering the advice given to him by Boards of Studies appointed by him for the purpose, and after consultation with affected Provincial Governments, determine the curriculum in all schools within the National Education System including—

- (a) curriculum content; and
- (b) curriculum standards and examinations; and
- (c) minimum age of entry; and
- (d) number of hours of instruction on the curriculum; and
- (e) number of days teaching each year; and

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- (f) . . . [Repealed]
- (g) maximum pupil-teacher ratio; and
- (h) language of instruction.

(2) The Minister shall, as soon as possible after the commencement date, declare by notice in the National Gazette those subjects of the community school curriculum which shall be nationally prescribed.

(3) A Provincial Government may pass a law empowering it to determine—

- (a) curriculum content; and
- (b) curriculum standards and examination; and
- (c) number of hours of instruction; and
- (d) language of instruction,

for any subject of the community school curriculum not declared to be nationally prescribed.

(4) A provincial law may make provision for the determination of all curriculum and associated matters in vocational centres, technical schools and village self-help schools.

(5) Where the Minister makes a determination under Subsection (1) in relation to an institution or institutions declared to be declared institutions under the *Higher Education Act* 1983, he shall before making such a determination, consult with the Commission on Higher Education.

(6) The Minister shall ensure that education authorities within the National Education System exercise their powers and functions under this Act and any other law relating to education with due respect for the identity of schools and the philosophy of all education agencies.

(7) The Minister has such other powers, functions and responsibilities as are prescribed by law.

(8) The membership and functions of a Board of Studies established under Subsection (1) shall be as prescribed.

## **28. Responsibilities of Departmental Head.**

In addition to his other powers, functions, duties and responsibilities under this Act and any other law, the Departmental Head—

- (a) is the chief executive of the National Education System; and
- (b) is responsible under the Minister for the provision of reasonable clerical and administrative services to the National Education Board; and
- (c) is responsible for determining the qualifications and standards required for registration or provisional registration of teachers; and
- (d) is responsible for the inspection of all schools, and for the certification and assessment of teachers; and
- (e) without limiting his powers under this Act or any other law, is responsible for the inspection of teachers for purposes of—
  - (i) registration; and
  - (ii) investigation where it is deemed necessary under Section 89 or 90 of the *Teaching Service Act* 1988; and
- (f) is responsible for the grant of certificates, diplomas and other awards to students and teachers within the National Education System; and
- (g) shall determine the equivalency of qualifications, certificates, diplomas and other awards obtained outside the National Education System in relation to those obtainable within it; and
- (h) is responsible for ensuring that the principle of partnership of all education agencies is upheld in practice in accordance with this Act or any other law relating to education matters; and
- (i) has any other functions which are necessary or convenient for carrying out, or which are ancillary to, the functions set out in this section.

## **29. Functions of the Department.**

The Department is the executive and inspectorial branch of the National Education System and—

- (a) for the purposes of this Act and any other law relating to education matters—shall act as the education agency for the State for State agency national institutions; and
- (b) is responsible for the carrying out and supervision of functions and responsibilities of the State in the National Education System under this Act and any other law relating to education matters; and

- (c) is responsible for the supervision of its implementation and, as appropriate, the implementation of approved plans and policies in relation to education; and
- (d) is responsible for the disbursement in accordance with law, and the supervision of the expenditure of money lawfully available for the purposes of this Act and of any other law relating to education matters.

***Division 3.—Administration of the National Education System in the National Capital District, etc.***

**Subdivision A.—Application of Division.**

**30. Application of Division 3.**

This Division applies to the National Capital District and those provinces that do not have in force a provincial law relating to education matters.

**Subdivision B.—Education Boards.**

**31. Constitution.**

- (1) There shall be an Education Board for the National Capital District and each province to which this Division applies.
- (2) Subject to this section, an Education Board shall consist of the officer responsible for superintending education matters in the National Capital District, or the province, as the case may be, and the following members appointed by the Minister:—
  - (a) three members to represent the views and interests of the State;
  - (b) two members appointed from a panel nominated by the Papua New Guinea Teachers' Association as representing the interest of teachers;
  - (c) three members appointed from a panel nominated by an association or associations jointly, recognized by the Minister as representing the views and interest of churches;
  - (d) two members appointed from a panel nominated—
    - (i) in the case of the National Capital District—by the National Capital District Commission to represent the Commission's interests; or;
    - (ii) in the case of a province—by an association or associations jointly recognized by the Minister as representing the interests of Local-level Governments in the province;
  - (e) two members nominated in a manner approved—
    - (i) in the case of the National Capital District—by the National Capital District Commission; or
    - (ii) in the case of a province—by the Provincial Administrator of that province,  
  
on the recommendation of the officer superintending education matters or the Divisional Head representing community interests in the National Capital District or the province, as the case may be.
- (3) A person who is or becomes—

- (a) a member of the Parliament; or
- (b) a member of a Provincial Government; or
- (c) a member of a body established in pursuance of Section 4(4) (*National Capital District*) of the Constitution to govern the National Capital District,

is not eligible to be or to remain a member of an Education Board.

(4) In the event of a failure on the part of an association or associations referred to in Subsection (2)(b), (c) or (d) to nominate a panel in accordance with those paragraphs within, in the opinion of the Minister, a reasonable period after having been requested by him to do so, the Minister may, of his own motion, make the necessary appointment or appointments for the purposes of that subsection.

(5) If at any time there is, in the opinion of the Minister, no association or associations adequately representing an interest referred to in Subsection (2)(b), (c) or (d) the Minister may, of his own motion, make the necessary appointment or appointments for the purposes of that subsection.

### **32. Tenure of office of members representing interests of the State.**

The members of an Education Board referred to in Section 31(2)(a) hold office during the pleasure of the Minister.

### **33. Tenure of office of members representing other than State interests.**

(1) Subject to this section, a member of an Education Board referred to in Section 31(2)(b), (c), (d) or (e) holds office for a period of three years.

(2) Where, in relation to the office of a member appointed under Section 31(2)(b), (c), (d), or (e) a casual vacancy occurs, the person appointed to be the alternate to the member shall be deemed to be appointed to fill the vacancy and shall, subject to this section, hold office for the balance of the term of office of the member in whose place he was appointed.

(3) A member of an Education Board referred to in this section shall be deemed to have vacated his office—

- (a) if his appointment is terminated by the Minister under this Act; or
- (b) if he becomes a person referred to in Section 31(3) or 34; or
- (c) if he resigns his office in writing addressed to the Minister and the resignation is accepted by the Minister; or
- (d) if he is absent, except on leave granted by the Board, from three consecutive meetings of the Board; or
- (e) if, being a person appointed under Section 31(2)(b), (c), (d) or (e), the body or bodies referred to in those provisions request that the appointment be terminated.

### **34. Ineligibility.**

A person who—

- (a) is an insane person or a person of unsound mind within the meaning of any law in force relating to the person, or property of persons, of unsound mind; or

- (b) has been convicted of an offence punishable under a law by death or imprisonment for one year or longer, and as a result of the conviction is subject to be sentenced to death or imprisonment, is under sentence of death or is undergoing imprisonment, or is under bond to appear for sentence if called on,

is not eligible to be or to continue to be a member of an Education Board.

### **35. Alternate members.**

(1) For each member of an Education Board (other than the officer responsible for superintending education matters in the National Capital District or the province, as the case may be) an alternate member shall be appointed in the same way and subject to the same conditions as the member for whom he is the alternate.

(2) In the event of the absence from the country or the inability to act of a member of an Education Board (other than the officer responsible for superintending education matters in the National Capital District or the province, as the case may be), the alternate member has and may exercise all his powers, functions, duties and responsibilities.

### **36. Functions, etc.**

- (1) Subject to this Act, the functions of an Education Board are—
  - (a) in consultation with Local-level Governments and education agencies in the National Capital District or in a province, as the case may be, to draw up and submit for the consideration of the National Education Board plans for the establishment and development of schools in the National Capital District or province; and
  - (b) to supervise the carrying out of approved plans in relation to education in the National Capital District or province; and
  - (c) to give final approval to the list of entrants to community schools where the number of applicants exceeds the number of places available; and
  - (d) to hear and determine appeals in cases where the governing body of a school expels a student and to ensure the representation of all parties involved in the appeal; and
  - (e) subject to Sections 4 and 17(1)(g)—
    - (i) to determine any special criteria which may be desirable to use in selecting students entering provincial high schools; and
    - (ii) to select those entering provincial high schools according to criteria referred to in Subparagraph (i); and
    - (iii) to ensure that boards of governors enrol students selected under Subparagraph (ii) taking into account the preference of parents in respect of the choice of school; and
  - (f) to advise and make recommendations to the National Education Board or an education agency on such matters relating to education in the National Capital District or the province—
    - (i) as are referred to it by that Board or agency; and
    - (ii) as to it seem proper; and

- (g) with due regard to the expressed wishes of teachers and education agencies concerned to have such responsibilities in relation to members of the Teaching Service in relation to their—
  - (i) appointment and promotion; and
  - (ii) transfer from one school to another; and
  - (iii) discipline,
 in member community schools, vocational centres and provincial high schools within the National Capital District or the province, in accordance with the *Teaching Service Act 1988*; and
- (h) when it considers in a particular case that it is necessary to do so—
  - (i) where fees have not been imposed under Section 17(1)(i)(i)— to impose fees subject to Section 17(1)(i)(ii) on the parents or guardians of students attending schools and to direct the education authority responsible for the school to collect fees so imposed for payment into the authority's funds for that purpose; or
  - (ii) in relation to schools where fees are not imposed under Subparagraph (i)—to determine the limits within which and the conditions subject to which fees may be imposed and charged by an education authority in respect of the school for which that education authority is responsible; and
- (i) to administer and account in such manner as the Head of the Department responsible for financial matters may direct for any funds that may be committed to it by the Department or the State for special purposes; and
- (j) to collaborate with other persons in organizing and providing adult education in the National Capital District or province; and
- (k) to approve the membership and functions of governing bodies of member schools; and
- (l) to undertake the responsibilities in relation to the selection of teachers in the National Capital District or province to attend professional courses that are approved by the Teaching Service Commission; and
- (m) such other functions in relation to education as are conferred or delegated by or under a national or provincial law; and
- (n) any other functions that are necessary or convenient for carrying out, or which are ancillary to, the functions set out in this subsection.

(2) In the exercise and performance of its powers and functions, the Education Board shall, as appropriate, consult and co-operate with, and tender advice to, Provincial Governments, Local-level Governments, the Teaching Service Commission, education agencies and governing bodies of schools in the National Capital District or province on matters on which they or any of them have common interests.

(3) Except in matters relating to staff or individuals, an Education Board shall give reasonable publicity in the National Capital District or province to its decisions and their underlying principles.

### **37. Annual report by Education Board.**

An Education Board shall, as soon as practicable after 31 December in each year, and in any event no later than 31 January in the following year, furnish to the National Education Board a report on its operations and the operation of the National Education System in the National Capital District or province during the year ended on that 31 December, and recommending any changes in legislation or administration that to it seem necessary or desirable for improving the operation or achieving the objects of this Act and the National Education System in that District or province.

### **Subdivision C.—Suspension, etc., of Education Board.**

#### **38. Suspension of Education Board.**

- (1) Where, in the opinion of the National Education Board—
  - (a) the business of an Education Board is being so negligently, inefficiently or badly conducted as not to be in the interests of schools and national institutions in the National Capital District or a province; or
  - (b) an Education Board is not properly carrying out the duties imposed on it by or under this Act or any other law relating to education matters,

the National Education Board may, by written order to the Chairman of that Education Board, suspend all or any of the powers and functions of the Education Board.

- (2) A suspension under Subsection (1) shall immediately be reported by the National Education Board to the Minister and unless previously confirmed, varied or revoked by him, shall lapse at the end of one month from the date of suspension.

#### **39. Effect of suspension.**

- (1) Subject to Subsection (2), a suspension under Section 38 operates to deprive an Education Board of the suspended powers or functions during the period of suspension.

- (2) The suspension of a power or function under Section 38 does not affect any right, privilege, obligation or liability acquired, accrued or incurred under or in respect of the suspended power or function, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability, which may be carried on or enforced as if the suspension had not taken place.

#### **40. Appointment of Manager.**

- (1) Where powers or functions of an Education Board are suspended under Section 38, the National Education Board may appoint a person to be the Manager for that Education Board.

- (2) Subject to any directions by the Minister, a Manager appointed under Subsection (1)—
  - (a) has and may exercise on behalf of the Education Board, such of the suspended powers and functions as are specified by the National Education Board by instrument; and
  - (b) has such other powers, functions, duties and responsibilities as are prescribed.

#### **41. Period of suspension.**

Subject to Section 38(2), a suspension made under Section 38(1) operates for such period as is fixed by the Minister, or until a new Education Board is appointed in accordance with Section 42.

#### **42. Appointment of members of new Education Board.**

Where all or any of the powers or functions of an Education Board are suspended under Section 38, the Minister—

- (a) may declare all positions on the Education Board, (other than that of the officer responsible for superintending education matters in the National Capital District or the province, as the case may be) including positions of alternate members, to be vacant; and
- (b) shall, within 14 days, inform, by written notice, the organizations or bodies, referred to in Section 31(2)(b), (c), (d) and (e), of the order; and
- (c) shall require new nominations in order that fresh appointments be made in accordance with Section 31(2), or in accordance with Section 33(2) as though they were appointments to fill casual vacancies, whichever he thinks appropriate in the circumstances.

#### **43. References to suspended Education Board.**

In relation to a power or function of an Education Board that is suspended under Section 38, a reference in this Act or in any other law or instrument to the Education Board shall be read as a reference to the Manager appointed under Section 40.

#### **44. Nature of suspended powers or functions.**

The powers and functions of an Education Board that may be suspended under Section 38 include any powers and functions delegated to the Education Board under this Act or any other law.

#### **45. First meeting of new Education Board.**

Within one month of the appointment of the new Education Board, it shall meet, and the Manager, appointed under Section 40, for the previously suspended Board shall report to the new Board on the manner in which he has exercised the suspended powers and functions during the period of suspension.

#### **Subdivision D.—Procedure, etc.**

#### **46. Chairman and Deputy Chairman.**

(1) The officer responsible for superintending education matters in the National Capital District or the province, as the case may be, is the Chairman and Executive Officer of the Education Board and is responsible for the implementation of Board decisions.

(2) The members of the Education Board shall elect one of their number to be the Deputy Chairman of the Education Board during the pleasure of the Board.

(3) In the event of the absence or inability to act of the Chairman, the Deputy Chairman has and may exercise all the powers and functions of the Chairman.



#### **47. Meetings of Education Board.**

- (1) An Education Board shall meet at least once in each school term.
- (2) Subject to Subsections (3) and (4), a meeting of an Education Board shall be convened by the Chairman by written notice to the other members of the Board and shall be held at the time and place specified in the notice.
- (3) The National Education Board may, by written notice to each member, direct that a meeting be held at a time and place specified in the notice.
- (4) The Chairman shall, within four weeks after receiving a request to do so from not less than four members of the Education Board, convene a meeting of the Board.

#### **48. Procedure at meetings.**

- (1) At a meeting of an Education Board—
  - (a) seven is a quorum; and
  - (b) the Chairman shall preside at all meetings at which he is present; and
  - (c) in the absence of the Chairman the Deputy Chairman shall preside and in the absence of the Chairman and the Deputy Chairman, the members present shall elect one of their number to preside; and
  - (d) all matters shall be decided by a majority of votes of the members present and voting; and
  - (e) the member presiding has a deliberative and, in the event of an equality of votes, also a casting vote.
- (2) Subject to this Act, the procedures at meetings of an Education Board are as the Board determines.
- (3) Each Education Board shall cause minutes of its proceedings to be kept in a manner approved by the Departmental Head, and the Chairman shall cause copies of the minutes to be forwarded to—
  - (a) the Departmental Head; and
  - (b) each member of the National Education Board; and
  - (c) in the case of the Education Board for the National Capital District—the National Capital District Commission; and
  - (d) in the case of the Education Board for a province that does not have in force a provincial law relating to education matters—the Provincial Administrator of the province; and
  - (e) education agencies in the province; and
  - (f) the Papua New Guinea Teachers' Association; and
  - (g) such other persons or bodies as it considers appropriate.

#### **49. Committees of Education Boards.**

- (1) An Education Board may appoint committees consisting of a member or members of the Board and such other persons (if any) as the Board appoints, to exercise and perform such powers and functions as the Board determines.

- (2) The Chairman of the Education Board shall appoint a Chairman of each committee.
- (3) The procedures of a committee shall be as determined by the Education Board.
- (4) Any committee formed shall, where appropriate, reflect the principle of partnership of all education authorities in the province.

#### **50. Delegation by Education Board.**

An Education Board may, by instrument, delegate to a committee of the Board all or any of its powers or functions (except this power of delegation and any power or function held by the Board under delegation) under this Act or any other law relating to education matters.

### ***Division 4.—Local-Level Governments.***

#### **51. Application of Division 4.**

This Division applies to Local-level Governments in—

- (a) the National Capital District; and
- (b) those provinces that do not have in force a provincial law relating to education matters.

#### **52. Functions of Local-level Governments to which this Division applies.**

(1) Subject to the provisions of the *Local-level Governments Administration Act* 1997 and any provincial law relating to Local-level Government matters, the functions of a Local-level Government in relation to the provincial component of the National Education System are—

- (a) to draw up plans for the establishment of schools in its area, and to submit such plans to the Education Board with a list of suggested priorities and a statement of the extent to which it is prepared and is legally capable of financing any programme for the construction and maintenance of the necessary buildings, teachers' houses and ancillary facilities; and
- (b) as far as finance and facilities legally available to it for the purpose allow—to give such assistance as it thinks fit, and on such conditions as it thinks fit, to the erection and maintenance of school buildings, teachers' houses and ancillary facilities in its area by education agencies; and
- (c) at times agreed on between it and the governing body—to inspect or to have inspected on its behalf any school buildings, teachers' houses or ancillary facilities in respect of which it has given assistance under Paragraph (b); and
- (d) if it so desires, with the consent of the Education Board and subject to such conditions and limitations as the Board determines—to organize or conduct adult education activities; and
- (e) if it so desires, to conduct and to be the education agency to conduct a school within the National Education System; and
- (f) to advise and make recommendations to the Education Board on such matters relating to education in the province or in the Local-level Government area as are referred to it by the Board, and on such other matters relating to education in the province or area as to it seem proper; and

(g) any other functions which are necessary or convenient for carrying out, or which are ancillary to, the functions set out in this subsection.

(2) In the exercise and performance of its powers and functions, a Local-level Government shall, as appropriate, consult and co-operate with and tender advice to the Education Board, education agencies and the governing bodies of schools in the matters on which they, or any of them, have common interests.

### **53. Delegation to Local-level Governments.**

(1) Subject to Subsection (2), the Education Board or an education agency may, by instrument, delegate to a Local-level Government, subject to agreement by that body, all or any of its powers and functions (except this power of delegation and any power or function held under delegation) under this Act or any law relating to education matters.  
<sup>[xcix]</sup>

(2) . . . [Repealed].

#### <sup>[cl]</sup>**53A. District Education Office.**

(1) In this section, "district" means a district for which a district administrative headquarters is established under Section 72(3) of the *Organic law on Provincial Governments and Local-level Governments*.

(2) There shall be established in each district a District Education Office which shall be responsible for the administration of education services at the district level to complement the provisions of Section 44(c) of the *Organic Law on Provincial Governments and Local-level Governments*.

#### <sup>[cii]</sup>**53B. District Education Administrator.**

(1) In this section, "district" means a district for which a district administrative headquarters is established under Section 72(3) of the *Organic law on Provincial Governments and Local-level Governments*.

(2) There shall be established under the *Public Services (Management) Act 1995* an office of District Education Administrator for each district.

(3) An appointment to an Office of District Education Administrator shall be made under the *Public Services (Management) Act 1995* after consultation with the Provincial Administrator for the province in which the district is situated.

(4) A District Education Office—

(a) is responsible for the administration of education services at district level;  
and

(b) shall assist the District Administrator with day to day management of education matters.

### ***Division 5.—Education Agencies.***

#### **54. Application of Division 5.**

This Division applies to education agencies—

(a) in the National Capital District; and

- (b) in those provinces which do not have in force a provincial law relating to education matters; and
- (c) responsible for national institutions other than exempt national institutions.

## **55. Recognition of education agencies.**

(1) Where an organization or person satisfies the Minister, after receiving the advice of the National Education Board that—

- (a) there is vested in it, or in some person on its behalf, property suitable for use in the establishment or conducting of a school or that such property is otherwise under its control; and
- (b) it is conducting or intends to conduct a school; and
- (c) its constitution is such as to be appropriate for the purpose of conducting a school; and
- (d) adequate resources for the conducting of a school are reasonably assured; and
- (e) it accepts or will accept responsibility for the establishment and maintenance of the school and of facilities associated with the school; and
- (f) it can and will operate within the framework of this Act and can and will comply with the requirements of and under this Act and any other law relating to education matters or applying to a school,

that organization or person shall be recognized by the Minister as an education agency for the purpose of the National Education System and of this Act as from a date fixed by the Minister.

(2) Subject to Subsection (3), where the Minister, after receiving a report from the National Education Board, is satisfied that an education agency recognized under this section no longer complies, or is no longer in a position to comply, with the provisions of Subsection (1) or with requirements imposed by or under this Act, he may cancel the recognition of the agency.

(3) Before cancelling the recognition of an education agency under this section, the Minister shall give the agency full opportunity of making representations and of being heard on the matter.

(4) On request, after reasonable notice, by an organization or person which is recognized under this section as an education agency, the Minister shall withdraw its recognition as an education agency.

## **56. Function of education agencies.**

(1) In addition to its other powers, functions and responsibilities under this Act and any other law relating to education matters, an education agency may establish, maintain and conduct member schools within the National Education System.

(2) This Act does not prevent an education agency, with the approval of the National Education Board, from—

- (a) imposing a common fee on the parents or guardians of students attending its schools to cover the liabilities of the agency in respect of—
  - (i) the operation of the schools including the payment of teachers and ancillary staff; and

- (ii) the general maintenance of buildings, equipment and aids and other facilities; and
  - (iii) the provision of buildings, equipment and aids and other facilities; and
- (b) directing the education authority responsible for each school to collect the common fee.

(3) Where—

- (a) fees have been imposed under Section 17(1)(i)(i) or 36(1)(h)(i); or
- (b) a determination has been made under Section 17(1)(i)(ii) or 36(1)(h)(ii),

an education agency—

- (c) shall collect the fees imposed under Paragraph (a); or
- (d) in respect of the member school for which it is the education agency—shall, subject to Paragraph (b), impose and collect such fees on and from the parents or guardians of students attending the school as, in its opinion, are necessary to meet the liabilities of the agency in relation to—
  - (i) the operation of the school including payment of teachers and ancillary staff; and
  - (ii) liabilities for general maintenance of building, equipment and other facilities; and
  - (iii) the provision of buildings, equipment and aids and other facilities.

(4) Money collected under Subsections (2) and (3) is the property of the education agency which collected the fees and shall be used for the purposes specified in that subsection and, in the case of the State, shall be paid into a trust account for that purpose.

(5) In accordance with Division 6 each education agency shall establish a governing body for each school conducted by it within the National Education System.

(6) Except as provided in this Act and any other law relating to education matters a governing body established under Subsection (5) is responsible to, and is subject to the supervision of, the education agency in the exercise of its responsibilities, but the education agency retains the responsibility for ensuring that any provisions of or under this Act or any other law relating to education matters are complied with in respect of the school for which the governing body is established.

(7) Subsection (6) does not apply to or in respect of a power, function or responsibility delegated under this Act or any other law to a governing body by an education authority other than the education agency concerned.

(8) Notwithstanding this Act, an education agency may, with the consent of the Education Board, constitute itself as the governing body for a school conducted by it.

(9) Subject to Section 27, this Act does not prevent an education agency, within the limits of its own resources, from—

- (a) preparing a syllabus for religious instruction; and
- (b) implementing and supervising a related programme.

(10) An education agency may, in consultation with the Departmental Head, the Education Board or the National Education Board, assist in providing professional development for teachers.

### **57. Joint institutions.**

(1) Two or more education agencies may join in the establishment, conduct or maintenance of a school within the National Education System, on such terms and conditions as are approved by the National Education Board or an Education Board, as the case may be.

(2) In a case referred to in Subsection (1), the education agencies concerned are jointly and severally liable for ensuring, in relation to the school, compliance with the provisions and requirements of or under this Act or any other law relating to education matters.

### **58. Education Secretaries.**

(1) Each education agency (other than the State or a Provincial Government) shall appoint an Education Secretary for the purposes of the National Education System and of this Act or any other law relating to education matters.

(2) An Education Secretary shall act as the channel of communication between the education agency and other education authorities.

(3) An Education Secretary shall, on behalf of the education agency, by whom he was appointed—

- (a) speak for the agency on education policies that concern that agency; and
- (b) speak for the agency on priorities for financial and other operational matters which concern the agency; and
- (c) assist generally in the process of planning and in the development of education in the country, so far as concerns the agency, in order to encourage the most advantageous use of resources.

(4) One person may be the Education Secretary for more than one education agency.

(5) The National Education Board or an Education Board, as the case may be, shall encourage the grouping of education agencies in order to minimise the number of separate Education Secretaries required to represent education agencies at the national level and the provincial level as appropriate.

(6) In exercising his responsibilities under this Act an Education Secretary shall uphold the principle of partnership of education authorities within the National Education System in accordance with this Act and any other law relating to education matters.

### ***Division 6.—Governing Bodies.***

#### **Subdivision A.—Governing Bodies for Schools, etc., in National Capital District, etc.**

### **59. Application of Subdivision A.**

This Subdivision applies to governing bodies for—

- (a) member schools in the National Capital District; and

- (b) member schools in a province that does not have in force a provincial law relating to education matters; and
- (c) a school declared to be a national institution in relation to which the Minister has, under Section 19(3), declared its governing body to be a Board of Management.

## **60. Boards of Management.**

[cii]

(1) An education agency shall establish a Board of Management for each pre-school, community school, elementary school, primary school and vocational centre conducted by it within the National Education System.

[ciii]

(2) This Act does not prevent one or more education agencies from establishing a single Board of Management for a group of pre-schools, community schools, elementary schools, primary schools or vocational centres.

## **61. Constitution, etc., of Boards of Management.**

(1) Subject to Subsection (2), a Board of Management—

(a) shall consist of—

- (i) at least five members, broadly representative of the community served by; and
- (ii) a teacher on the staff of; and
- (iii) the Headmaster *ex officio* of,

[civ]

the pre-school, community school, elementary school, primary school or vocational centre; and

[cv]

(b) shall include a direct representative or representatives of the education agency conducting the pre-school, community school, elementary school, primary school or vocational centre.

[cvi]

(2) Subsection (1) does not apply to cases in which an education agency, under Section 56(8) constitutes itself as the governing body of a pre-school, community school, elementary school, primary school or vocational centre.

(3) A Board of Management shall be accountable for any money made available to it by the State, education authority, or the public, in the manner required by the Head of the Department responsible for financial matters, or as prescribed.

## **62. Functions of Boards of Management.**

(1) Subject to this Act, a Board of Management is immediately responsible within the limits of funds and other resources available to it—

- (a) for the planning for, and the provision and maintenance of, school buildings, teachers' houses and ancillary facilities as required; and

- (b) for ensuring the availability of adequate housing for teachers; and
- (c) for the enrolment of pupils; and
- <sup>[cviii]</sup>(d) within the general framework of policy established under this Act and the philosophy of the education agency conducting the pre-school, community school, elementary school, primary school or vocational centre—
  - (i) for determining the aims and goals of that school or centre; and
  - (ii) for supervising the achievement of those aims and goals; and
- (e) for the making of rules for the discipline of students including the punishment by suspension, expulsion or the provision of work or services; and
- (f) for the suspension or expulsion of students for breaches of rules made in accordance with Paragraph (e); and
- (g) for such other matters in relation to the National Education System as are prescribed by or under this Act or any other law relating to education matters.

(2) A Board of Management has, in addition to the functions and responsibilities set out in Subsection (1), any other functions determined by it that are necessary or convenient for carrying out, or that are ancillary to, the functions and responsibilities set out in that subsection.

(3) A Board of Management shall lay down procedures of any committee appointed under Subsection (2).

### **63. Delegation by Boards of Management.**

A Board of Management may, by instrument, delegate to a committee of the Board all or any of its powers or functions (except this power of delegation and any power or function held by the Board under delegation) under this Act or any other law relating to education matters.

#### **Subdivision B.—Governing Bodies for Provincial High Schools.**

### **64. Application of Subdivision B.**

This Subdivision applies to—

- (a) member schools in the National Capital District; and
- (b) member schools in a province that does not have in force a provincial law relating to education matters; and
- (c) a school declared to be a national institution in relation to which the Minister has, under Section 19(3), declared the governing body to be a Board of Governors.

### **65. Board of Governors.**

<sup>[cviii]</sup>

In consultation with the Education Board, an education agency shall establish a Board of Governors for each provincial high school, secondary school and technical school conducted by it within the National Education System.

### **66. Constitution, etc., of Boards of Governors.**



- (1) A Board of Governors shall consist of not less than eight members of whom—
  - (a) in the case of a school other than a State or Provincial Government agency school—two shall be nominated by the Minister; and
  - (b) in the case of a State or the Provincial Government agency school—two shall be nominated jointly by such education agencies (other than the State or the Provincial Government) as, in the opinion of the Education Board, have an interest in the school,

and shall include, as far as is practicable—

- (c) persons broadly representative of, and nominated in such manner as is approved by the Education Board, by—
    - (i) the Education Board; and
    - (ii) Local-level Governments in the area principally served by the school; and
    - (iii) teachers on the staff of the school; and
    - (iv) students at the school; and
    - (v) the Parents' and Citizens' Association (if any) established for the school under Section 88; and
  - (d) any other persons with special knowledge and experience of education or with a special interest in the education and cultural life of the area principally served by the school whom the education agency considers may have a valuable contribution to make to the life of the school.
- (2) A failure to make a nomination under Subsection (1)(a) or (b) does not affect the validity of the constitution or acts of the Board of Governors.
  - (3) The headmaster of a school is *ex officio* a member of the Board of Governors.
  - (4) The Board of Governors shall include a representative or representatives of the education agency conducting the school, and such representatives may constitute a majority of the Board.
  - (5) With the approval of the Education Board, a member of a Board of Governors may serve in more than one of the capacities referred to in Subsection (1)(c) or (d).

## **67. Chairman and Deputy Chairman of Board of Governors.**

- (1) There shall be a Chairman of each Board of Governors, appointed or elected in such manner as the Education Board approves.
- (2) The members of each Board of Governors shall elect one of their number to be Deputy Chairman of the Board during the pleasure of the Board.
- (3) In the event of the absence or inability to act of the Chairman, the Deputy Chairman has and may exercise all the powers and functions of the Chairman.

## **68. Functions of Boards of Governors.**

- (1) Subject to this Act, a Board of Governors is responsible within the limits of funds and other resources available to it for—

- (a) planning for, and the provision and maintenance of school buildings, teachers' houses and ancillary facilities; and
- (b) subject, in the case of money made available by the State, to any directions by the Head of the Department responsible for financial matters—for accounting for money made available to the school by any other education authority by the levying of fees and other charges and otherwise, and for controlling the expenditure of such money; and
- (c) the enrolment, in consultation with the Education Board, of students; and
- (d) the making of rules for the discipline of students, including punishment by suspension, expulsion or the provision of work or services; and
- (e) the suspension or expulsion of students for breaches of rules made in accordance with Paragraph (d); and
- (f) within the general framework of policy established under this Act and the philosophy of the education agency conducting the school—
  - (i) determining the aims and goals of the school; and
  - (ii) supervising the achievement of those aims and goals; and
- (g) the appointment of a committee (not including students of the school) to be responsible for such matters in relation to the appointment of teachers in the school as are provided by or under any law; and
- (h) such other functions in relation to the school—
  - (i) as are delegated to it by the Education Board or the education agency; or
  - (ii) as prescribed by or under this Act; and
- (i) the engagement and control of locally employed ancillary staff.

(2) A Board of Governors has, in addition to the functions and responsibilities set out in Subsection (1) any other functions, including the power to appoint committees to exercise powers and functions determined by it, that are necessary or convenient for carrying out, or that are ancillary to, the functions and responsibilities set out in that subsection.

(3) A Board of Governors shall lay down the procedures of any committee appointed under Subsection (2).

### **69. Delegation by Boards of Governors.**

A Board of Governors may, by instrument, delegate to a committee of the Board all or any of its powers or functions (except this power of delegation and any power or function held by the Board under delegation) under this Act or any other law relating to education matters.

### **Subdivision C.—Governing Bodies for National Institutions.**

### **70. Application of Subdivision C.**

This Subdivision does not apply—

- (a) to exempt national institutions; or

- (b) to a national institution that is deemed by the Minister to have a governing body other than a Governing Council.

## **71. Governing Councils.**

In consultation with the National Education Board, an education agency shall establish a Governing Council for each national institution conducted by it within the National Education System.

## **72. Constitution, etc., of Governing Councils.**

- (1) A Governing Council shall consist of not less than 10 members of whom—
  - (a) in the case of a national institution other than a State agency national institution—two shall be nominated by the Minister; and
  - (b) in the case of a State agency national institution—two shall be nominated jointly by such education agencies (other than the State) as, in the opinion of the National Education Board, have an interest in the national institution; and
  - (c) one shall be the Principal of the national institution by virtue of his appointment as Principal,and shall include, as far as is practicable—
  - (d) persons broadly representative of, and nominated in such manner as is approved by the National Education board, by—
    - (i) the National Education Board; and
    - (ii) the Education Board; and
    - (iii) Local-level Governments; and
    - (iv) the teaching staff of the national institution; and
    - (v) students at the national institution; and
    - (vi) the Papua New Guinea Teachers' Association; and
    - (vii) subject to Subsection (4)—
      - (A) in the case of schools providing teacher education—the Faculty of Education of the University of Papua New Guinea; or
      - (B) in the case of schools providing technical education—the University of Technology; and
    - (viii) graduates of the national institution; and
  - (e) any other persons with special knowledge and experience of education or with a special interest in the education or cultural life of the country whom the education agency considers may have a valuable contribution to make to the management of the national institution.
- (2) Failure to make a nomination under Subsection (1)(a) or (b) does not affect the validity of the constitution or acts of the Governing Council.
- (3) A Governing Council shall include a representative or representatives of the education agency conducting the national institution and such representatives may constitute a majority of the Council.

(4) With the approval of the Minister, a Governing Council may include persons representative of both the University of Papua New Guinea and the University of Technology and this section does not prevent more than one university or institute of higher learning from being represented on the Governing Council at the same time.

(5) With the approval of the National Education Board, a member of the Governing Council may serve in more than one of the capacities referred to in Subsection (1)(d) and (e).

### **73. Chairman and Deputy Chairman of Governing Council.**

(1) There shall be a Chairman of each Governing Council, appointed or elected in such manner as the National Education Board approves.

(2) The members of each Governing Council shall elect one of their number to be the Deputy Chairman of the Council during the pleasure of the Council.

(3) In the event of the absence or inability to act of the Chairman, the Deputy Chairman has and may exercise all the powers and functions of the Chairman.

### **74. Functions of Governing Councils.**

(1) Subject to this Act, a Governing Council is responsible, within the limits of funds and other resources available to it for—

- (a) the government of the national institution; and
- (b) the making of rules for the discipline of students, including punishment by suspension, expulsion or the provision of work or services; and
- (c) the suspension or expulsion of students for breaches of rules made in accordance with Paragraph (b); and
- (d) recommending to the Departmental Head after consultation with the Principal and the Academic Advisory Committee appointed under Section 75 the award of appropriate certificates or diplomas to all students who have satisfied the requirements; and
- (e) the forward planning of the national institution and for making recommendations to the appropriate authority for capital expenditure for, and maintenance of, the national institution and of its facilities; and
- (f) subject to a determination under Section 27 and the philosophy of the education agency conducting the national institution—determining the objectives of, including the type and range of programmes to be offered at, the national institution and such other matters as are necessary or desirable for enhancing the standing and efficiency of the national institution and the good government of the institution; and
- (g) the appointment of a committee (not including students of the school) to be responsible for such matters in relation to the appointment of professional staff in the national institution as are provided by or under any law; and
- (h) such other functions in relation to the national institution—
  - (i) as are delegated to it by the National Education Board or the education agency; or

- (ii) as prescribed by or under any other law relating to education matters;  
and
- (i) the engagement and control of locally employed ancillary staff; and
- (j) the suspension or termination of studies of students for reasons other than disciplinary after consultation with the Principal and the Academic Advisory Committee.

(2) A Governing Council has, in addition to the functions and responsibilities set out in Subsection (1), any other functions and responsibilities that are necessary or convenient for carrying out, or that are ancillary to, the functions and responsibilities set out in that subsection.

#### **75. Academic Advisory Committees.**

Each Governing Council shall appoint an Academic Advisory Committee in accordance with criteria determined by the National Education Board to be responsible to the Council for the assessment, evaluation and general supervision of the academic and professional instruction given at the national institution.

#### **76. Committees of Governing Councils.**

(1) A Governing Council may appoint committees consisting of a member or members of the Council and such other person or persons as it appoints to exercise and perform such powers and functions as the Council determines.

(2) The Governing Council shall appoint a Chairman of each committee.

(3) The procedures of a committee shall be as determined by the Governing Council or as decided by the committee.

#### **77. Delegation by Governing Councils.**

A Governing Council may, by instrument, delegate to a committee of the Council all or any of its powers or functions (except this power of delegation and any power or function held by the Council under delegation) under this Act or any other law relating to education matters.

#### **Subdivision D.—Provisions Relating to Governing Bodies Generally.**

#### **78. Application of Subdivision D.**

This Subdivision applies to—

- (a) member national institutions; and
- (b) member schools in provinces which do not have in force a law relating to education matters.

#### **79. Procedures of meetings.**

(1) A Governing Body shall meet at least once in each school term and more often if convened by the Chairman by written notice to the members.

(2) The Chairman shall, within one month after receiving a request from not less than—

- (a) in the case of a Board of Governors or a Board of Management—three members; or
  - (b) in the case of a Governing Council—four members,
- of the Board or Council, as the case may be, convene a meeting of the Board or Council.
- (3) At a meeting of a governing body—
    - (a) a quorum is 50% of their number of which the Chairman shall be one; and
    - (b) all matters shall be decided by a majority of the votes of the members present and voting; and
    - (c) the Chairman has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.
  - (4) The head of a school shall appoint a Secretary to the governing body.
  - (5) A governing body shall cause minutes of its proceedings to be kept and the Secretary shall forward copies of the minutes to the education agency, the Departmental Head and the National Education Board.
  - (6) Subject to this section, the procedures of a governing body shall be as determined by the education agency with the approval of the Education Board or the National Education Board, and otherwise as determined by the governing body.

#### **80. Imposition and collection of fees.**

- (1) Where—
  - (a) fees have been imposed under Section 17(1)(i)(i), 36(1)(h)(i) or 56(2) or (3)(d); or
  - (b) a determination has been made under Section 17(1)(i)(ii) or 36(1)(h)(ii),a governing body—
  - (c) shall collect the fees imposed under Paragraph (a); or
  - (d) shall, subject to Paragraph (b), with the prior approval of the education agency to which it is responsible, impose and collect such fees on and from the parents or guardians of students attending the school as, in its opinion, are necessary to meet the liabilities of the governing body or the agency in relation to—
    - (i) the operation of the school including payment of teachers and ancillary staff; and
    - (ii) liabilities for general maintenance of buildings, equipment and other facilities; and
    - (iii) the provision of buildings, equipment and other aids and facilities.
- (2) Money collected under Subsection (1) is in all cases, including State or provincial government agency schools, the property of the Board of Management, Board of Governors or Governing Council, as the case may be, that collected the fees and shall be used for the purpose specified in that subsection.

#### **81. Delegation.**

The National Education Board, the Education Board or the education agency, as the case may be, may, by instrument, delegate to—

- (a) a Board of Management; or
- (b) a Board of Governors; or
- (c) a Governing Council; or
- (d) a committee of any of them,

all or any or its powers and functions in relation to the school for which the Board or Council, as the case may be, is established (except this power of delegation and any power held under delegation under this Act or any other law relating to education matters).

### **82. Minister may direct incorporation.**

Where the Minister is of the opinion that the financial obligations of an unincorporated—

- (a) Board of Management; or
- (b) Board of Governors; or
- (c) Governing Council,

in relation to the collection and disbursement of fees are such that it is in the public interest to do so, he may direct that Board of Management, Board of Governors or Governing Council to incorporate itself.

### **Subdivision E.—Suspension of Governing Bodies.**

### **83. Application of Subdivision.**

This Subdivision applies in relation to suspension of governing bodies to which Subdivisions III.6.A, B, and C apply.

### **84. Suspension by National Education Board, etc.,**

- (1) For the purpose of this section, "Education Board"—
  - (a) in relation to a national institution other than an exempt national institution—means the National Education Board; and
  - (b) in relation to any other school—means an Education Board established under Division III.3.

(2) Where in the opinion of an Education Board, the affairs of a member school are being mismanaged by its governing body or the governing body fails to comply with requirements of or under this Act or any other law relating to education matters or applying to the school, the Education Board may, by written notice to the education agency conducting the school, suspend the governing body.

(3) Where, in the opinion of an education agency conducting a school, the affairs of the school are being mismanaged by its governing body or the governing body fails to comply with requirements of or under this Act or any other law relating to education matters, the education agency may request the Education Board to suspend the governing body and where the Education Board is satisfied that the request is justified it may, by written notice to the education agency, suspend the governing body.

- (4) Where a governing body is suspended under Subsection (2) or (3)—
  - (a) the appointments of all members of the governing body terminate; and
  - (b) the Education Board shall appoint a person acceptable to the education agency, who shall, subject to the directions of the Education Board, perform the functions of the governing body; and
  - (c) the education agency shall, within such time as the Education Board fixes in the notice under Subsection (2) or such other time as the Board allows, reconstitute the governing body or arrange for its reconstitution to the satisfaction of the Education Board; and
  - (d) the suspension continues until the governing body is reconstituted in accordance with Paragraph (c).
- (5) This section does not apply in relation to cases in which an education agency under Section 56(8) constitutes itself as the governing body of a member school.

***Division 7.—Administration Generally.***

**85. Limitation of functions in relation to teachers, etc.**

(1) Except as is specifically provided by or under this Act or any other law relating to education matters, no education authority other than the Teaching Service Commission has any powers in relation to the appointment, promotion, transfer, discipline, suspension, dismissal or conditions of service of teachers generally or of individual teachers in the Teaching Service.

(2) Subsection (1) does not prevent an education agency or governing body of a school—

- (a) from making from within its own resources—
  - (i) payments of any kind to additional teachers appointed by the governing body to the school over and above the members of the Teaching Service provided by the State in terms of the establishment applicable to any such schools in the National Education System; or
  - (ii) with the approval of the Teaching Service Commission—payments to all or any members of the Teaching Service of additional benefits including overseas and attraction allowances; or
- (b) otherwise making provision for all or any members of the Teaching Service or teachers in addition to those provided for by or under this Act or any other law relating to the Teaching Service; or
- (c) reporting in writing to the education Board or the National Education Board, as the case may be, on any matter relating to the appointment and discipline of members of the Teaching Service at the school.

**86. Declaration of Office.**

Subject to a provincial law, a person who is appointed to be a member or alternate member of—

- (a) the National Education Board; or
- (b) an Education Board,



shall before entering on the duties of his office, make before the Minister or a person authorized for that purpose by him, the Declaration of Office in Schedule 3 of the Constitution.

#### **87. Fees and allowances.**

Members and alternate members (other than officers or employees of the Public Service or members of the Teaching Service) of—

- (a) the National Education Board; and
- (b) the National Capital District Education Board,

may be paid by the State such fees, allowances and expenses in such circumstances as are prescribed.

#### **88. Powers of inspection.**

(1) The Minister, a Provincial Government, the National Education Board, an Education Board, an education agency or a person authorized for the purpose by him or it, as the case may be, may at all reasonable times enter and inspect for the purpose of this Act or any law relating to education matters, a school within his or its jurisdiction.

(2) For the purposes of Subsection (1)—

- (a) all national institutions within the National Education System including all schools within the National Capital District shall be deemed to be within the jurisdiction of the Minister and of the National Education Board; and
- (b) all schools other than national institutions within a province shall be deemed to be within the jurisdiction of the Provincial Government for that province and the Education Board.

(3) The Minister, or a person authorized for the purpose by him, or an authorized representative or a provincial government may at all reasonable times enter and inspect a permitted school.

#### **89. Parents' and Citizens' Associations.**

(1) The education agency may, in relation to schools in a province that does not have in force a provincial law relating to education matters, approve an association representing parents of students and other persons interested in the education and welfare of students at the school to be the Parents' and Citizens' Association for the school.

(2) Subject to this Act, the constitution of a Parents' and Citizens' Association shall be as approved by the education agency, who may issue model constitutions for the guidance of associations desiring approval and its functions shall be as set out in its constitution.

(3) Subject to any directions of the education agency, a Parents' and Citizens' Association may, by arrangement with the controlling authority, use the school buildings, grounds and facilities for holding fetes and other activities for the benefit of the school, provided that teaching in the school is not disrupted or interfered with.

#### **90. Governing bodies may raise and expend money.**

(1) Subject to Subsection (2) and to compliance with any other law and its constitution, and to a direction of the education agency responsible for the school, the governing body of a school—

- (a) may engage in commercial activities for the purpose of raising funds; and
- (b) shall expend any money so raised for the benefit of the school.

(2) In the case of national institutions and schools in provinces that do not have in force a provincial law relating to education matters, the form of activity permitted under Subsection (1) is as prescribed.

### **91. Suspension of classes, etc.**

(1) In this section "Education Board" means—

(a) in relation to—

- (i) an exempt national institution in the National Capital District; and
- (ii) a member school in a province that does not have in force a provincial law relating to education matters,

the Education Board; and

(b) in relation to all other national institutions—the National Education Board.

(2) Where, in relation to a national institution or a member school in a province which does not have in force a provincial law relating to education matters—

- (a) there is a lack of community support; or
- (b) there is a threat to the health, welfare or safety of staff or students due to—
  - (i) natural causes; or
  - (ii) civil disturbances; or
- (c) threats have been made to staff or students; or
- (d) the school has failed to comply with a lawful direction given by an education authority,

the Education Board may order the suspension of teaching in the affected school.

(3) Before an order is made under Subsection (2)(a) or (d), the Education Board shall consult with the education agency conducting the school.

(4) Where an order under Subsection (2) is made, the Education Board shall within 14 days cause to be delivered to the Minister a written report setting out the reasons for, and the period of, the suspension.

(5) After consideration of the report referred to in Subsection (4), the Minister may—

- (a) lift the suspension; or
- (b) confirm the suspension; or
- (c) extend the period of suspension; or
- (d) order the closure of the school; or
- (e) give any direction or make any recommendation not inconsistent with this Act or any other law relating to education which in his opinion will ameliorate the situation.

(6) Before the Minister takes any action under Subsection (5) he shall consult with the education agency conducting the school and shall give sufficient opportunity for the agency to make representations to him.

(7) Where the Minister orders the closure of school under Subsection (5)(d) the teaching positions at the school are abolished, and the persons occupying those positions are deemed to be appointed to non-institutional positions created under the *Teaching Service Act* 1988.

## **PART IV.—MEMBERSHIP, ETC., OF SCHOOLS.**

### ***Division 1.—Member Provincial Institution.***

#### **92. Interpretation of Division 1.**

In this Division "school" means a provincial institution in a province that does not have in force a provincial law relating to education matters.

#### **93. Requirements for membership.**

(1) Where the Education Board is satisfied, on application by an education agency that—

- (a) subject to this Act, the school will admit students irrespective of religious or doctrinal affiliations and that it will generally be conducted in accordance with the objects and purposes of the National Education System and of this Act; and
- (b) no person, other than a teacher, will be appointed to a teaching position at the school; and
- (c) no teaching positions at the school except, subject to the approval of the Education Board, the position of headmaster, will be reserved teaching positions; and
- (d) teaching at the school will conform with the relevant curricula determined by the Minister under Section 27,

and that appropriate arrangements and undertakings have been made accordingly, it may recognize the school as a member school of the National Education System.

(2) Nothing in this section relating to the numbers and qualifications of persons engaged in teaching duties applies in relation to the teaching of subjects outside the subjects of the curricula determined under Section 27.

#### **94. Cancellation of recognition of school, etc., as member school.**

(1) Subject to Subsection (2), where the Education Board is satisfied that a school that has been recognized as a member school under Section 93 has ceased to comply with the requirements of a member school or the arrangements and undertakings referred to in that section have not been continued in force or complied with, it may cancel the recognition of the school.

(2) Before cancelling the recognition of a school under Subsection (1), the Education Board shall give the education agency concerned full opportunity of making representations and of being heard on the matter.

(3) On request, after reasonable notice by an education agency conducting a member school the Education Board shall withdraw its recognition as a member school.

***Division 2.—Member National Institutions.***

**95. Interpretation of Division 2.**

In this Division, "Education Board" means—

- (a) in relation to exempt national institutions—the National Capital District Education Board; and
- (b) in relation to all other national institutions—the National Education Board.

**96. Requirements for membership.**

(1) Where the Minister is satisfied on an application by an education agency, and after receiving a report from the Education Board, that—

- (a) the national institution will be conducted in accordance with the objects and purposes of the National Education System and of this Act; and
- (b) subject to Section 102—no teaching position at the national institution other than the position of principal or headmaster shall be a reserved teaching position; and
- (c) subject to procedures determined by the Teaching Service Commission and, where so required by or under any law—the appointment and promotion of teachers will be made by the Education Board on the nomination of the governing body of the national institution; and
- (d) in the case of a teachers' college—the governing body may be required by the Education Board to provide opportunities for teachers to obtain further training of a kind and standard acceptable to the Board; and
- (e) teaching at the national institution will conform to the relevant curricula determined by the Minister under Section 27,

and that appropriate arrangements or undertakings have been made accordingly, he may recognize the national institution as a member national institution of the National Education System.

(2) Nothing in this section relating to the numbers and qualifications of persons engaged in teaching duties applies in relation to the teaching of subjects outside the subjects of the curricula determined under Section 27.

**97. Cancellation of recognition of national institution as a member national institution.**

(1) Subject to Subsection (2), where the Minister, after receiving a report from the Education Board, is satisfied that a national institution that has been recognized as a member national institution of the National Education System has ceased to comply with the requirements of a member national institution or the arrangements and undertakings referred to in Section 96 have not been continued in force or complied with, the Minister may cancel the recognition of the national institution as a member national institution.

(2) Before cancelling the recognition of a national institution as a member national institution of the National Education System, the Education Board shall give the

education agency concerned full opportunity of making representations and of being heard on the matter.

(3) On request by an education agency conducting a member national institution, the Education Board shall withdraw its recognition as a member national institution.  
<sup>[cix]</sup>97A. International schools.

On and after 1 January 1986 schools known as International High Schools and International Primary Schools shall cease to be member national institutions.

### ***Division 3.—Permitted Schools.***

#### **98. Schools that are permitted schools.**

(1) A school that for any reason is not recognized under the preceding provisions of this Part shall be known as a permitted school but is not within the National Education System.

(2) Subject to Sections 100 and 101, this Act does not prevent the conducting of permitted schools.

#### **99. Students at permitted schools, etc.**

(1) Where a permitted school complies with the staffing, education standard, curricula and other conditions imposed under this Act for the purpose of this subsection, the Departmental Head may determine that the school is one whose students may be awarded certificates or diplomas obtainable at schools within the National Education System.

(2) This Division does not prevent the Departmental Head from accepting for the purposes of this Act or any other law relating to education matters, a qualification, certificate or diploma obtained by a person from an institution outside the National Education System as being, subject to such conditions as he determines, in a particular case, the equivalent of a qualification, certificate or diploma obtained from an institution within the System.

### ***Division 4.—Schools Generally.***

#### **100. Register of schools.**

(1) The Departmental Head shall cause to be kept a register containing a list of member schools and permitted schools.

(2) A person or authority wishing to establish a permitted school shall apply in the prescribed manner to the Departmental Head as to his or its intention, and instruction at the permitted school must not commence until a Certificate of Registration from the Departmental Head has been received by the person or authority intending to conduct the permitted school.

Penalty: A fine not exceeding K1,000.00.

Default penalty: A fine not exceeding K100.00.

(3) On receipt of an application under Subsection (2), the Departmental Head shall consider the application and after making such enquiries (if any) as he thinks fit may grant or refuse to grant a Certificate of Registration.

(4) Regulations may provide for some or all matters concerning the conduct of permitted schools and where such regulations apply, the continued operation of the school shall depend on compliance with the regulations.

(5) Where a permitted school refuses or fails to comply with regulations referred to in Subsection (4) the Minister may order the closure of the permitted school.

(6) Within six months of the commencement date, all permitted schools shall apply to the Departmental Head for a Certificate of Registration.

(7) Where a person or authority conducting a permitted school is refused a Certificate of Registration by the Departmental Head under Subsection (6) the Minister shall order the closure of the permitted school.

### **101. Closure of schools, etc.**

(1) Where in the opinion of the Minister, a school should not, by reason of the standard or type of education, curriculum or training (other than religion or doctrinal education or training) given at it, continue to be conducted, the Minister may, by notice in the National Gazette, close the school.

(2) A person who conducts or is associated with the conduct of a school that has been closed under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

Default penalty: A fine not exceeding K100.00.

(3) A person who teaches at a school that has been closed under Subsection (1) or Section 100(5) or (7) is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

Default penalty: A fine not exceeding K100.00.

(4) Where due to a change of policy of an education agency or a lack or co-operation by the community, an education agency is no longer able to support a school, it may close the school.

(5) Before closing a school under Subsection (4), an education agency shall give at least three month's notice to the Education Board or the National Education Board, as the case may be.

(6) Before closing a provincial institution the Minister shall consult with the appropriate provincial government.

(7) Where—

(a) the Minister orders the closure of a school under Subsection (1); or

(b) an education agency closes a school under Subsection (4),

the teaching positions at the school are abolished, and the persons occupying those positions are deemed to be transferred to non-institutional positions created under the *Teaching Service Act 1988*.

(8) The powers of the Minister under this section are in addition to and not in derogation of any other powers conferred by this Act or any other law.

### **102. Reserved teaching positions.**

- (1) This section applies to—
- (a) national institutions; and
  - (b) schools in a province that does not have in force a provincial law relating to education matters.

(2) An education agency for a national institution or school referred to in Subsection (1) may, by written notice to the National Education Board, reserve a headmaster's or principal's position in a school conducted by it for a category of persons of a particular religious denomination or of a particular religious teaching order, or otherwise defined by reference to criteria that are—

- (a) not commonly used in a secular education system; and
- (b) acceptable to the National Education Board.

(3) Where a reserved teaching position remains vacant for 12 months the reservation of the position lapses and the position shall not afterwards be reserved.

(4) The National Education Board may, at the request of an education agency reserve up to 25% of teaching positions in a teachers' college.

(5) The National Education Board may determine the criteria which shall be used for reserving teaching positions under Subsection (4).

### **103. Inservice College.**

(1) The Inservice College is hereby established as a member national institution of the National Education System.

(2) The Inservice College shall provide courses and training for teachers and education administrators.

- (3) Regulations may provide for—
- (a) the establishment of a Governing Council for the Inservice College; and
  - (b) the membership of the Governing Council; and
  - (c) the functions of the Governing Council; and
  - (d) such other matters as are required for the good government of the College.

## **PART V.—APPEALS.**

### **104. Appeals.**

[cx]

(1) Except as provided in this section or in any other law relating to education matters, a person or authority aggrieved by a decision of the National Education Board or of the Departmental Head may appeal to the Minister whose decision is final.

(2) A person or authority aggrieved by a decision of an Education Board may appeal to the National Education Board.

(3) In relation to the closure of schools under Section 91, 100 or 101, a person or authority aggrieved by a decision of the Minister may appeal to the National Court.

(4) A person who has been refused registration or provisional registration as a teacher, or whose registration or provisional registration as a teacher is cancelled under Part VI. may appeal to a court.

(5) Where a Provincial Government is aggrieved by a decision of the National Government or the National Government is aggrieved by a decision of a Provincial Government the matter shall be resolved in accordance with Section 118 of the *Organic Law on Provincial Governments and Local-level Governments*.

## **PART VI.—TEACHERS.**

### **105. Register of Teachers.**

(1) Where the Departmental Head is satisfied that a person has the qualifications and attains the standards required under Section 28 for registration or provisional registration as a teacher, and is otherwise a fit and proper person to be a teacher, the Departmental Head may—

(a) register him or provisionally register him, as the case may be, as a teacher; and

(b) record the registration in a register to be known as the Register of Teachers.

(2) Where the Departmental Head is satisfied that a person has special experience or qualifications that would be of value in a restricted field to the National Education System and is otherwise a fit and proper person to be a teacher, the Departmental Head may, notwithstanding that he has not the qualifications or does not attain the standards referred to in Subsection (1), register or provisionally register him as a teacher.

(3) Registration or provisional registration in accordance with Subsection (2) is valid only within such limits and subject to such restrictions as are determined by the Departmental Head and entered in the Register of Teachers.

(4) A provisional registration of a teacher—

(a) may be confirmed or extended; and

(b) is valid,

for such period and subject to such conditions as the Departmental Head determines.

(5) The Register of Teachers shall be in such form and contain such particulars as are prescribed.

### **106. Cancellation of registration.**

(1) Where the Departmental Head is satisfied that a person who is registered or provisionally registered as a teacher—

(a) is not a fit and proper person to be a teacher; or

(b) has been dismissed from the Teaching Service by the Teaching Service Commission; or



- (c) is grossly incompetent in his performance as a teacher; or
- (d) has been judged guilty of disgraceful or improper conduct under Part VII of the *Teaching Service Act 1988*; or
- (e) is suffering from serious mental or physical incapacity such that he is unable to carry out his duties as a teacher,

he may notify the person.

(2) The Departmental Head shall give the person referred to in Subsection (1) full opportunity of making representations and of being heard on the matter.

(3) After consideration of the representation (if any) made under Subsection (2) the Departmental Head may cancel his registration or provisional registration.

## **PART VII.—GRANTS-IN-AID, SCHOLARSHIP, ETC.**

### **107. Grants-in-aid.**

(1) The Head of State, acting on advice, may, out of money lawfully available for the purpose, make grants-in-aid to education agencies (other than the State) to assist them in carrying out education functions and, in particular—

- (a) in the provision of approved executive and ancillary staff; and
- (b) in the provision of buildings to be used for education purposes or the extension or alteration of existing buildings used for education purposes; and
- (c) in the provision of education equipment; and
- (d) in the conduct of educational training institutions and facilities; and
- (e) in the provision of funds to assist agencies in meeting their responsibilities in respect of teachers,

to such extent and on such terms and conditions as are determined by the Head of State, acting on advice.

(2) An application for a grant-in-aid under this section shall be made in the prescribed manner.

(3) Where money granted under this section is payable by instalments and the Minister is not satisfied that an instalment has been properly expended, he may, in addition to any other action which he may lawfully take, revoke the grant in so far as it relates to the payments of further instalments.

### **108. Scholarships in schools.**

[cxi]

(1) The Minister may, out of moneys lawfully available for the purpose, make scholarships available—

- (a) to students in member schools; and
- (b) subject to the availability of funds, to students in schools other than member schools,

on such terms and conditions as he determines.

(2) An application for a scholarship under this section shall be as prescribed.

### **109. Effect of Part VII.**

This Part does not limit or restrict the powers of the State under this Act or any other law to make assistance, financial or otherwise, available for education purposes, or affect any liability of the State under this Act or any other law.

## **PART VIII.—ADMINISTRATION IN A PROVINCE OR UNDER A PROVINCIAL LAW.**

### **110. Delegation.**

At the request of a Provincial Government, the Minister or the National Education Board shall delegate all or any of its powers and functions set out in Schedule 1 and such delegation may, at the request of a Provincial Government, provide for the further delegation or those powers by a Provincial Government.

### **111. Administration under a provincial law.**

This Act does not prevent a provincial law from providing for the administration of provincial high schools and vocational centres in a province by a Provincial Education Board, and where such a provincial law has been made this Act, in so far as relating to matters provided for by the provincial law, ceases to apply.

## **PART IX.—MISCELLANEOUS.**

### **112. Obstruction.**

A person who hinders or obstructs an education authority or any other person in the exercise or performance of its or his powers, functions, duties and responsibilities under this Act is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

Default penalty: A fine not exceeding K100.00.

### **113. Regulations.**

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for prescribing penalties of fines not exceeding K400.00 for offences against the regulations.

## **SCHEDULE 1.**

Sec. 110.

### **POWERS AND FUNCTIONS WHICH SHALL BE DELEGATED.**

Sections 17(1)(i) (in relation to provincial institutions), 27 (in relation to curricula content, language of instruction and standards of education in vocational centres), 31, 32, 38, 40, 41, 42, 55, 66(1), 84, 91, 94.

<sup>[lxxxiv]</sup>Replaced by No. 11 of 1983.

<sup>[lxxxvi]</sup>Definition "elementary education" in Section 1 inserted by *Education (Amendment) Act 1995* (No. 13 of 1995), s1(a).

<sup>[lxxxvii]</sup>Definition (Amendment) Act 1995 (No. 13 of 1995), s1(b).

<sup>[lxxxviii]</sup>Definition "lower primary education" in Section 1 inserted by *Education (Amendment) Act 1995* (No. 13 of 1995), s1(c).

<sup>[lxxxix]</sup>Definition "lower secondary education" in Section 1 inserted by *Education (Amendment) Act 1995* (No. 13 of 1995), s1(c).

<sup>[lxxxix]</sup>Definition "preparatory class" in Section 1 inserted by *Education (Amendment) Act 1995* (No. 13 of 1995), s1(d).

<sup>[xc]</sup>Definition "primary school education" in Section 1 repealed and replaced by *Education (Amendment) Act 1995* (No. 13 of 1995), s1(e).

<sup>[xcii]</sup>Section (ba) of definition "school" in Section 1 inserted by *Education (Amendment) Act 1995* (No. 13 of 1995), s1(f)(i).

<sup>[xciii]</sup>Section (ca) of definition "school" in Section 1 inserted by *Education (Amendment) Act 1995* (No. 13 of 1995), s1(f)(ii).

<sup>[xciii]</sup>Definition "secondary school" in Section 1 inserted by *Education (Amendment) Act 1995* (No. 13 of 1995), s1(g).

<sup>[xciv]</sup>Definition "secondary school education" in Section 1 inserted by *Education (Amendment) Act 1995* (No.13 of 1995), s1(g).

<sup>[xcv]</sup>Definition "upper primary education" in Section 1 inserted by *Education (Amendment) Act 1995* (No. 13 of 1995), s1(h).

<sup>[xcvi]</sup>Definition "upper secondary education" in Section 1 inserted by *Education (Amendment) Act 1995* (No. 13 of 1995), s1(h).

<sup>[xcvii]</sup>Section 4(1)(e) inserted by *Education (Amendment) Act 1995* (No. 13 of 1995), s2.

<sup>[xcviii]</sup>Section 27(1)(f) repealed by *Education (Amendment) Act 1995* (No.13 of 1995), s3.

<sup>[xcix]</sup>Section 53(2) repealed by *Education (Amendment) Act 1995* (No. 13 of 1995), s4.

<sup>[c]</sup>**Section 53A inserted by *Education (Amendment) Act 1995 (No. 13 of 1995)*, s5.**

<sup>[ci]</sup>**Section 53B inserted by *Education (Amendment) Act 1995 (No. 13 of 1995)*, s6.**

<sup>[cii]</sup>Section 60(1) amended by *Education (Amendment) Act 1995* (No. 13 of 1995), s7(a).

<sup>[ciii]</sup>Section 60(2) amended by *Education (Amendment) Act 1995* (No. 13 of 1995), s7(b).

<sup>[civ]</sup>Section 61(1)(a) amended by *Education (Amendment) Act 1995* (No.13 of 1995), s8(a)(i).

<sup>[cv]</sup>Section 61(1)(b) amended by *Education (Amendment) Act 1995* (No.13 of 1995), s8(a)(ii).

<sup>[cvi]</sup>Section 61(2) amended by *Education (Amendment) Act 1995* (No. 13 of 1995), s8(b).

<sup>[cvii]</sup>Section 62(1)(d) amended by *Education (Amendment) Act 1995* (No. 13 of 1995), s9.

<sup>[cviii]</sup>Section 65 amended by *Education (Amendment) Act 1995* (No. 13 of 1995), s10.

<sup>[cix]</sup>Section 97A inserted by *Education (Amendment) Act 1986* (No. 10 of 1986).

<sup>[cx]</sup>Section 104(1) repealed and replaced by *Education (Amendment) Act 1989* (No. 3 of 1989).

<sup>[cxii]</sup>Section 108(1) repealed and replaced by *Education (Amendment) Act 1995* (No. 13 of 1995), s11.