



**Tuvalu**

# **EDUCATION ACT**

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Tuvalu

## EDUCATION ACT

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Tuvalu

## EDUCATION ACT

### AN ACT TO REFORM THE LAW RELATING TO EDUCATION<sup>1</sup>

Commencement [29th December 1976]<sup>2</sup>

## PART I - PRELIMINARY

### 1 Short title

This Act may be cited as the Education Act.

### 2 Interpretation

In this Act, unless the context otherwise requires —

“**authorised officer**” means any public officer authorised to act by the Minister either generally or for a purpose specified in this Act;

“**controlling authority**” in relation to any school means the person or persons responsible for the establishment and maintenance or for the maintenance of any non-Government school, or in the case of application for registration of any non-Government school, the person or persons proposing to be responsible;

“**Government school**” or “**institution**” means a school or institution for higher education established, maintained or conducted under section 4 of this Act;

“**local government school**” means a school established or maintained by a local government council;

“**manager**” means the person directly responsible to the controlling authority for the control and management of a non-Government school;

“**Minister**” means the Minister for Social Services or such other Minister for the time being responsible for education and “**Ministry**” means his ministry;

“**non-Government school**” means any school other than a Government school or a local government school;

“**parent**” in relation to any pupil or child includes a guardian and any person who has the actual custody of the pupil or child;

“**pupil**” means a person attending a school or institution for the purpose of undergoing instruction or receiving education;

“**school**” means any place at which any secular instruction is given to 6 or more pupils below the age of 18 years.

## **PART II - GENERAL POWERS OF MINISTER**

### **3 Promotion of education**

The Minister may make such arrangements as he considers necessary to ensure that educational and training opportunities are provided for children according to their age, aptitude and ability, and for adults.

### **4 Minister may establish, conduct and discontinue Government schools and institutions**

The Minister may establish, maintain, develop and conduct schools, institutions and other educational facilities and may discontinue any such school, institution or educational facility.

### **5 Grants in aid of education**

The Minister may make grants in aid of education (hereinafter referred to as grants) to a controlling authority or to a local government council.

### **6 Scholarships**

The Minister may award scholarships entitling the holders to the reimbursement of all or part of the costs incurred in their secondary or tertiary education or training whether within or without Tuvalu.

### **7 Establishment of boards of governors and school committees**

(1) If, in the opinion of the Minister, the establishment of a board of governors or a school committee would be in the interests of any government school or

group of schools, he may establish a board of governors or school committee for the school or group of schools with such membership, powers, duties and functions as he may determine.

- (2) The Minister shall establish a board of governors for the *Motufoua* School and its membership, powers, duties and functions shall be such as shall be agreed between the Minister and the Tuvalu Church.

## **PART III - THE EDUCATIONAL ADVISORY COMMITTEE**

### **8 Educational Advisory Committee**

- (1) There shall be a committee to be known as the Educational Advisory Committee (referred to in this Part as the Committee) which shall consist of 6 members.
- (2) The Chairman and other members of the Committee shall be appointed by the Minister from among persons of experience in education.
- (3) Members of the Committee shall hold office for 3 years (or, if appointed to fill any vacancy, the remainder of the 3-year term for which the original member was appointed) but shall be eligible for re-appointment.
- (4) At least one member of the Committee shall be appointed from nominations put forward by the Tuvalu Church.

### **9 Functions of the Committee**

The functions of the Committee shall be —

- (a) to consider and make recommendations upon any matter referred to it either under the provisions of this Act or by the Minister; and
- (b) to advise and assist the Minister on the formulation of plans and policies for the development of education.

### **10 Procedure and meetings**

- (1) The Committee may —
  - (a) appoint and decide the constitution and functions of subcommittees of the Committee;
  - (b) regulate its own procedure in so far as the same is not prescribed by or under the provisions of this Act; and
  - (c) at the discretion of the Chairman, invite any person to attend and take part in any meetings of the Committee or its sub-committees, provided that such person or persons shall not be entitled to vote thereat.

- (2) The Committee shall meet at such times as the Senior Education Officer may decide.

## 11 Quorum

The quorum of the Committee shall be 4.

## 12 Report

It shall be the duty of the Director of Education to report to the Committee the action taken on any matter on which the Committee has advised the Minister.

# PART IV - CONTROL OF NON-GOVERNMENT SCHOOLS

## 13 All non-Government schools to be registered

- (1) Subject to subsection (2) no non-Government school shall be established or conducted unless such school is registered in accordance with the provisions of this Part of this Act.
- (2) The provisions of this Part shall not apply to the *Motufoua* School but the Minister shall hereby have power to give directions to the controlling authority or to the board of governors established by section 7(2) as to the exercise of any function vested in those persons with respect to the conduct of the school and if the controlling authority or board of governors fail to comply with any such direction, the Minister may transfer to himself, for such periods as he sees fit, all or any of the functions with respect to the conduct of the school vested in the controlling authority or the board of governors, as the case may be.

## 14 Registration of non-Government schools

- (1) Any controlling authority intending to establish a non-Government school shall apply to the Director of Education for the school to be registered.
- (2) The Director of Education may register the school and issue the controlling authority with a certificate of registration or he may refuse the application if he is satisfied that —
- (a) the number of potential pupils in the area capable of benefiting from the facilities offered by the proposed school is too small to warrant the establishment of such a school; or
- (b) the proposed site, or premises, or accommodation to be provided are unsuitable or inadequate for the type of school sought to be established;
- or

- (c) adequate provision already exists for the type of education which it is proposed to give in the school; or
  - (d) adequate or suitable instruction will not be provided at the school having regard to the classification of the school sought and the age and sex of its proposed pupils; or
  - (e) the controlling authority or manager of the school is not a suitable or appropriate person or the controlling authority includes any person not a suitable or appropriate person to be the controlling authority of a school.
- (3) If the Director of Education refuses an application for a certificate of registration under subsection (2) the applicant may, within 30 days of the date of such refusal, appeal to the Minister and the Minister shall thereupon refer the matter to the Educational Advisory Committee for its opinion and on receipt of the opinion of the Committee shall decide the appeal on its merits, and his decision shall be final.
- (4) A certificate of registration issued under subsection (2) may classify the school in a category which specifies the highest form or type of education which may be provided therein and may also specify any other condition which the Director of Education sees fit to impose.

## **15 Register of non-Government schools**

- (1) The Director of Education shall keep a register of non-Government schools in respect of which a certificate of registration has been issued and shall include therein the name and place of each school, the classification of the school, the name of the controlling authority, the name of the manager, if any, the conditions on which the certificate of registration has been granted and such other particulars as the Minister may prescribe by Regulations.
- (2) The Director of Education shall publish from time to time a list of schools for the time being registered or deemed to be registered under the provisions of this Act and of any schools the registration of which has been cancelled pursuant to section 16.
- (3) No controlling authority shall divest itself of its interest in a registered school, or shall alter the place of the school, or its manager, or the type and form of education from the type and form of education falling within the classification in which the school is registered, without the Director of Education first approving the alteration and amending the register and certificate of registration and the requirement for such approval shall be deemed to be a condition of registration imposed under section 14(4).

## 16 Cancellation of registration

- (1) The Director of Education may at any time cancel the registration of any registered non-Government school and order the controlling authority to close the school if he is satisfied that —
  - (a) it is conducted in a manner detrimental to the physical, mental or moral welfare of pupils; or
  - (b) the accommodation is inadequate, overcrowded, unsafe, or otherwise detrimental to health and the defects cannot be remedied at reasonable expense; or
  - (c) adequate or suitable instruction is not provided having regard to its classification or the age and sex of the pupils or the basic curriculum laid down or approved by the Minister is persistently and materially departed from or religious instruction is not provided as part of the curriculum; or
  - (d) any publication which is for the time being declared unsuitable for use in schools by the Minister is or has been, after the date of such declaration, used in, or in the course of, or as part of, the instruction provided at the school; or
  - (e) the school has failed to conform with the conditions imposed in or deemed to be imposed in the certificate of registration or the particulars supplied when the certificate of registration was applied for; or
  - (f) a person who has not been registered or approved as a teacher in accordance with the provisions of Part VI is employed to teach at the school or any person is managing or assisting in the management of the school after having been convicted of any offence involving fraud, dishonesty, violence or immorality.
- (2) Where the registration of a school has been cancelled under subsection (1) the controlling authority may, within 30 days of the date of such cancellation, appeal against the cancellation to the Minister and pending the disposal of the appeal the Minister may in his discretion permit the school to remain open.
- (3) The Minister shall before deciding such appeal refer the matter to the Educational Advisory Committee for its opinion and on receipt of the opinion of the Committee shall decide the appeal on its merits.
- (4) The decision of the Minister on an appeal under subsection (3) shall be final.

## 17 Offences

Any person who establishes, maintains or conducts a non-Government school without a certificate of registration in force in respect thereof or otherwise than in accordance with its conditions or who administers or assists in the management of such a school shall be liable to a fine of \$200 and to a fine of \$5 for each day on which the offence continues after conviction therefor.

## **PART V - FURTHER POWERS OF MINISTER IN RESPECT OF NON-GOVERNMENT AND LOCAL GOVERNMENT SCHOOLS**

### **18 Curricula and examinations**

- (1) The Minister may from time to time and after consultation with the Educational Advisory Committee lay down or approve the basic curricula to be followed in all Local Government and non-Government schools.
- (2) The Minister may from time to time and after consultation with the Education Advisory Committee institute or approve such examinations as he shall deem necessary for such schools and make rules concerning the content and conduct of such examinations.

### **19 Religious instructions in schools**

- (1) All non-Government and Local Government schools shall include religious instruction in their curricula.
- (2) Teachers shall not be compelled to give or be present at religious instruction or any act of religious worship if to do so would be against the dictates of their consciences.
- (3) If a parent of any pupil requests that such pupil be wholly or partly excused from attending religious instruction or any act of religious worship in a school the pupil shall be excused such attendance wholly or partly as the case may be.

### **20 School hours and terms**

The Minister may prescribe the number of hours during the day and the number of days in the year during which non-Government and Local Government schools shall be open.

### **21 Inspection of schools**

- (1) The Minister shall cause inspections to be made of every non-Government and Local Government school at such intervals as may appear to him to be appropriate.
- (2) The Minister or any authorised officer may enter and inspect any place in which there is reason to believe that a school is being conducted.
- (3) Any person who wilfully obstructs the Minister or any authorised officer making an inspection under this section shall be liable to a fine of \$100.

## PART VI - TEACHERS

### 22 Teachers to be registered or approved

No person shall teach in any school unless he has been registered or approved in accordance with this Part.

### 23 Register of teachers

- (1) The Director of Education shall keep a register of registered teachers which shall contain in respect of each teacher registered therein his name, his education and professional training, his academic and professional qualifications, his grade, the date he was registered and such other particulars as may be prescribed.
- (2) The register of teachers shall be open to the public for inspection at the offices of the Ministry during its normal hours of business.

### 24 Registered teachers

- (1) Subject to the provisions of this Act and regulations made under it the Director of Education shall have power to grant or refuse any application for registration under the section 23:

Provided that no person shall be registered as a teacher unless he holds a teaching qualification recognised by the Minister; and

Provided further that any person whose application for registration has been refused may appeal to the Minister and the Minister shall thereupon refer the matter to the Educational Advisory Committee for its opinion. On receipt of the opinion of the Committee the Minister shall decide the appeal on its merits and his decision shall be final.

- (2) The Director of Education shall issue a certificate of registration to any teacher registered by him as a teacher in accordance with the provision of this section.

### 25 Approved teachers

- (1) The Director of Education may, subject to the provisions of this Act and any regulations made under it, approve the employment in any school of a teacher who is not otherwise qualified for registration but who in the opinion of the Minister or Director of Education should be permitted to teach.
- (2) The Director of Education shall issue a certificate of approval to any person approved by him in accordance with the provisions of this section.

## 26 Cancellation of registration or approval

- (1) If at any time it shall appear to the Director of Education that all or any of the grounds mentioned in subsection (2) exist in relation to a registered or approved teacher, he shall give full particulars thereof in writing to the teacher and require him within a specified time not exceeding 1 month from the date of the notice to show cause in writing to the satisfaction of the Director of Education why his certificate of registration or approval as the case may be shall not be cancelled.
- (2) The grounds upon which a registered or approved teacher may be required to show cause under this section are that he —
  - (a) has been guilty of dereliction of duty or conduct unbecoming a teacher; or
  - (b) has been convicted of an offence involving dishonesty, fraud, immorality or violence; or
  - (c) has imparted to any pupil any instruction which is detrimental to the physical, mental or moral welfare of the pupil; or
  - (d) has given false information relating to his character, qualifications and experience; or
  - (e) has failed to comply with the provisions of this Act or regulations made hereunder or with declarations or directions made by the Minister under those provisions and applicable to him.
- (3) After expiration of the time specified in a notice under this section the Director of Education shall cancel the registration or approval as the case may be of the teacher to whom the notice relates unless the teacher has shown cause against such cancellation to the satisfaction of the Director of Education.
- (4) The Director of Education shall give to the teacher concerned notice in writing of his decision under subsection (3) and, where appropriate, to the controlling authority of the school in which the teacher concerned is employed.

## 27 Appeals

- (1) Any teacher whose registration or approval has been cancelled by the Director of Education may within 30 days appeal to the Minister who shall before deciding such appeal refer it to the Educational Advisory Committee for its opinion.
- (2) On receipt of the opinion of the Committee the Minister shall decide the appeal on its merits and his decision shall be final.
- (3) Any person whose registration or approval as a teacher has been cancelled and who has not appealed under subsection (1) or whose appeal has been dismissed may, at any time after the expiration of 12 months from the date of

such cancellation, and from time to time at intervals of not less than 6 months thereafter, apply to the Director of Education for the restoration of such registration or approval and the Director of Education may, having regard to the character of such person, his conduct subsequent to such cancellation and any other circumstances which the Director of Education may consider relevant, restore such registration or approval or may refuse the application.

## **28 Offences**

If any person teaches in any school without being registered or approved as a teacher, he shall be liable to a fine of \$50 for the first offence and a fine of \$100 for each subsequent offence:

Provided that it shall not be an offence under this section for a person whose registration or approval has been cancelled by the Director of Education under this Act to teach or assist in teaching pending the determination of any appeal lodged by him under the provisions of section 27 unless such person has been suspended from duty.

## **29 Corporal punishment**

- (1) No teacher, other than a head-teacher, shall administer corporal punishment to any pupil.
- (2) If a head-teacher administers corporal punishment to any pupil, he shall record details of the punishment administered and the offence for which the corporal punishment was administered in a book to be kept at the school for that purpose.
- (3) The Minister may give directions for further controlling corporal punishment in schools.

# **PART VII - COMPULSORY EDUCATION**

## **30 Compulsory education**

- (1) The Minister may by order provide, either generally or in respect of the whole or part of any 1 or more islands and subject to such exemption as shall be specified, that the parent of every child of a specified age or ages shall secure the regular education of his child at a registered non-Government, local government or Government school.
- (2) Every parent who neglects to obey such an order, or without sufficient cause ceases to do so, shall be liable to a fine of \$5 and to a fine of \$1 for each day on which the offence continues after conviction therefor.

## PART VIII - MISCELLANEOUS AND REGULATIONS

### 31 Misrepresentations

Any person who —

- (a) wilfully makes any false entry in any record or return or other document required to be made, kept or submitted under this Act or Regulations made under it; or
- (b) wilfully misrepresents himself to be the controlling authority of a registered school or to be a registered or approved teacher or to be qualified as a teacher shall be liable to imprisonment for 6 months or to a fine of \$200.

### 32 Disturbing school

Any person who wilfully disturbs or interrupts the instruction being given in any school, or who insults or abuses any teacher in the presence or hearing of pupils assembled in the school or in the grounds of the school in which the teacher is engaged, shall be liable to imprisonment for 2 months or to a fine of \$50.

### 33 Fees

- (1) The Minister may charge fees for tuition or board and lodging at any Government school or institution and may prescribe fees for tuition, board and lodging at non-Government schools in receipt of a grant under section 5:  
Provided that the Minister may, in his discretion, pay or remit in whole or in part any such fees in any particular case.
- (2) The parent of a pupil shall be liable for all fees due in respect of such pupil at a school or institution whether the pupil was enrolled by the parent or some other person.
- (3) All fees due from a parent under the foregoing subsections shall be recoverable by or on behalf of the Minister as a civil debt in a court of competent jurisdiction.

### 34 Unsuitable publications

The Minister, after taking the advice of the Educational Advisory Committee, may declare by notice that any publication is unsuitable for use in schools.

### 35 Regulations

- (1) The Minister may make regulations for carrying out the purposes of this Act.

- (2) In particular and without limiting the generality of the foregoing power such regulations may provide for or relate to the following matters —
- (a) the fees to be charged for tuition and board and lodging at a school;
  - (b) the application for registration of a non-Government school;
  - (c) the conditions under which and the purposes for which grants may be made to non-Government schools;
  - (d) the application by teachers for registration of approval;
  - (e) the minimum standards required for recognising a teaching qualification and the grading of teachers;
  - (f) the basic curricula for schools and the standards of accommodation for non-Government schools;
  - (g) the securing of school attendance when an Order has been made under section 30 and the temporary exclusion from schools of disruptive pupils;
  - (h) the ratio to registered teachers in which approved teachers may be employed in any school;
  - (i) the terms and conditions governing the granting of scholarships;
  - (j) the manner of any appeal brought under the provisions of this Act;
  - (k) the classification of schools; and
  - (l) any other matter or thing which by this Act may be prescribed or which is incidental or ancillary to any of the foregoing.

### **36 Forms**

The Minister may by notice prescribe forms to be used for the purposes of this Act.

## ENDNOTES

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<sup>1</sup> 1990 Revised Edition, Cap. 38 – Acts 9 of 1976, 8 of 1977

<sup>2</sup> LN 22/1977