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SCHEDULE

A
BILL

ENTITLED

PRE-TERTIARY EDUCATION ACT, 2019

AN ACT to provide for a decentralised pre-tertiary education system and an educational system to produce individuals with the requisite knowledge, skills and values to become functional and productive citizens for national development, to establish a Technical and Vocational Education and Training Service and to provide for related matters.

PASSED by Parliament and assented to by the President:

**PART ONE – THE EDUCATION SERVICE AND THE
DECENTRALISED SYSTEM**

General Provisions

System of Education

1. (1) The system of pre-tertiary education shall be known as basic education.

(2) Basic education shall consist of

- (a) two years of Kindergarten;
- (b) six years of Primary Education;
- (c) three years of Junior High School; and
- (d) three years of secondary level education.

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- (3) Secondary level education shall consist of either
 - (a) a Senior High School Education; or
 - (b) Technical and Vocational Secondary Education and Training.

Free, Compulsory and Universal Basic Education

2. (1) A child who has attained school going age shall attend a course of instruction as laid down by the Minister in a school at the basic level recognised for that purpose by the Minister.

(2) Basic education shall be free, compulsory and universal.

(3) There shall be no social, cultural, economic or geographic hindrance to any child of school-going age from gaining access to free compulsory universal basic education within the immediate environment of that child.

(4) A District Assembly shall provide the necessary infrastructural requirements and any other facilities for the provision of basic education for the population in its area of authority.

(5) Where a child does not attend a course of basic level of instruction, the parent or guardian shall in the first instance appear before the School Management Committee for appropriate action.

(6) A parent or guardian who fails to comply with the appropriate action of the School Management Committee commits an offence and is liable on summary conviction

- (a) to a fine not exceeding five penalty units and one penalty unit for each day that the offence continues; or
- (b) instead of the fine, to community service as determined by the court.

(7) Where a parent or guardian cannot provide the necessities of life required for a child to attend a course of basic level instruction, that parent or guardian shall make an application to the District Assembly or Regional Education Directorate for assistance.

(8) The District Assembly or Regional Education Directorate may provide the support necessary for the education of the child concerned.

Decentralised Education System

3. (1) The Minister shall take measures to

- (a) cede effective responsibility for the provision and management of basic schools to the District Assemblies; and

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(b) ensure that the Ministry responsible for Education and Education Service provide effective oversight for secondary schools.

(2) Memorandums of Understanding will be entered into with faith-based organisations for the management of faith-based schools.

Inclusive education

4. (1) The Ministry responsible for Education and District Assemblies shall provide and ensure that the environment created for basic education is user friendly for physically challenged persons and children with special education requirements.

(2) All private schools that deliver education to children with special needs shall ensure that the environment created for basic education is user friendly and meets the requirements of such children admitted into the institutions.

(3) A parent or guardian shall take advantage of inclusive education facilities to send a child with special needs to the appropriate education facility or make a request for the provision of an appropriate education facility which may be provided subject to the availability of resources.

(4) For the purpose of this section, “inclusive education” means the value system that holds that each child irrespective of their physical or personal circumstance is given equal opportunity and access to basic education.

The Education Service

Establishment of the Education Service

5. (1) There is established by this Act, a body corporate with perpetual succession and a common seal to be known as the Education Service which may sue and be sued in its own name.

(2) For the performance of its functions, the Education Service shall have the power to acquire and hold movable and immovable property, to dispose of such property and to enter into any contract or any other transaction.

(3) Where there is a hindrance to the acquisition of immovable property, such immovable property where appropriate may be acquired for the Education Service under the State Lands Act, 1962 (Act 125) and the cost of acquisition shall be borne by the Education Service.

Membership of the Education Service

6. The Education Service shall consist of
- (a) the personnel of the Education Service at the headquarters existing before the commencement of this Act;
 - (b) the personnel of educational management units existing immediately before the commencement of this Act; and
 - (c) any other person who may be employed for the Education Service.

Object of the Education Service

7. The object of the Education Service is to provide coordination and harmonisation for the effective delivery of basic education in the country.

Functions of the Education Service

8. To achieve the object under section 7, the Education Service shall
- (a) be responsible for the coordination of technical standards and direction for the effective and efficient implementation of approved national policies and programmes related to basic education delivery;
 - (b) be responsible for the monitoring of all funds allocated for the delivery of effective and efficient basic education and to advise the Minister on financial matters relating to education;
 - (c) submit to the Minister recommendations for basic educational policies and programmes;
 - (d) be responsible for other human resource management matters in secondary schools; and
 - (e) to carry out any other functions as are incidental to the attainment of the objects of the Education Service.

Governing body of the Education Service

9. (1) The governing body of the Education Service is a Board consisting of the following:

- (a) a chairperson with extensive expertise in academic and administrative matters;
- (b) one representative of the Public Services Commission not below the rank of Director;
- (c) one distinguished female educationist;

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- (d) one representative of the Conference of Heads of Assisted Secondary Schools;
- (e) one representative of the National Inspectorate Authority;
- (f) one representative of the National Teaching Council;
- (g) one representative of the National Council for Curriculum and Assessment;
- (h) one representative of the National House of Chiefs;
- (i) one representative of the Teacher Associations on a rotational basis;
- (j) a representative of the Ministry of Education not below the rank of Director; and
- (k) one representative of the Local Government Service Council.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

Functions of the Board

10. (1) The Board shall advise the Minister on policy formulation and the coordination of approved national policies, programmes and standards related to basic education and shall

- (a) ensure the effective implementation of the decentralised education system;
- (b) submit to the Minister policy recommendations for basic educational programmes and standards;
- (c) promote collaboration between the Ministry, the Education Service and the Local Government Service;
- (d) be responsible for the appointment, promotion, transfer, discipline and dismissal of heads and other staff of secondary schools; and
- (e) advise the Minister on matters that the Minister may request.

(2) The Board shall ensure the proper and effective performance of the functions of the Education Service.

Tenure of office of members of the Board

11. (1) A member of the Board shall hold office for four years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

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(2) Subsection (1) does not apply to the ex-officio members of the Board.

(3) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.

(4) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(5) The President may by letter addressed to a member revoke the appointment of that member.

(6) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability to act would result in the declaration of a vacancy.

(7) Where there is a vacancy:

(a) under subsection (3) or (4), or section 13,

(b) as a result of a declaration under subsection (6), or

(c) by reason of the death of a member,

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy

Meetings of the Board

12. (1) The Board shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one-third of the members of the Board convene an extraordinary meeting of the Board at a place and time determined by the chairperson.

(3) The chairperson shall preside at the meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present and voting shall preside.

(4) The quorum at a meeting of the Board is seven members.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a meeting of the Board but a co-opted person shall not vote on a matter for decision at the meeting.

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(7) The proceedings of the Board are not invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this section, the Board may determine the procedure for its meetings.

Disclosure of interest

13. (1) A member of the Board who has an interest in a matter for consideration by the Board shall disclose in writing the nature of that interest and is disqualified from participating in the deliberations of the Board in respect of the matter.

(2) Where a member contravenes subsection (1), the chairperson shall notify the Minister who shall inform the President in writing to revoke the appointment of that member.

(3) Without limiting any further cause of action that may be instituted against the member, the Board shall recover the benefits derived from a member who contravenes subsection (1) in addition to the revocation of the appointment of the member.

Establishment of Committees

14. (1) The Board may for the discharge of its functions establish committees consisting of members of the Board or non-members or both to perform such functions as may be determined by the Board.

(2) Without limiting subsection (1) the Board shall appoint the following committees:

- (a) a Finance and Administration Committee;
- (b) a Monitoring and Evaluation Committee;
- (c) an Academic Oversight Committee; and
- (d) any other committees the Board may consider necessary for the effective performance of its functions.

(3) The Board shall determine the membership, tenure of office and functions of a committee.

Allowances

15. Members of the Board and members of a committee of the Board shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.

Ministerial directives

16. The Minister may give directives to the Board on matters of policy.

Collaboration with other bodies

17. The Board shall collaborate with other statutory bodies in the education sector.

Delegation of power of appointment

18. The President may in accordance with article 195 of the Constitution delegate the power of appointment under this Act.

Administration of the Education Service

Director-General of the Education Service

19. (1) The President shall, in accordance with article 195 of the Constitution, appoint a Director-General for the Education Service.

(2) The Director-General shall hold office on the terms and conditions specified in the letter of appointment.

Functions of the Director-General

20. (1) The Director-General

- (a) is responsible for the day-to-day administration of the headquarters structures of the Education Service;
- (b) is responsible for the coordination of the education policies and activities at the regional and district level subject to the general directives of the Board;
- (c) shall ensure the implementation of the decisions of the Board; and
- (d) shall perform any other function determined by the Board.

(2) The Director-General may delegate a function to an officer of the Education Service but shall not be relieved of the ultimate responsibility for the performance of the delegated function.

Deputy Director-General

21. (1) The President shall, in accordance with article 195 of the Constitution, appoint a Deputy Director-General for the Education Service.

(2) The Deputy Director-General shall hold office on the terms and conditions specified in the letter of appointment.

(3) The Deputy Director-General shall be responsible to the Director-General in the performance of the functions of the Deputy Director-General.

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- (4) The Deputy Director-General shall
 - (a) assist the Director-General in the performance of functions and perform other functions that the Director-General may delegate; and
 - (b) act as Director-General in the absence of the Director-General.

Secretary to the Board

22. (1) The Board shall appoint an officer of the Education Service not below the level of Director as Secretary to the Board.

(2) The Secretary shall arrange the business for and cause to be recorded and keep the minutes of the meetings of the Board.

(3) The Secretary shall also perform the functions that the Board or the Director-General in consultation with the Board may assign.

(4) The Secretary shall be assisted in the performance of functions by the staff of the Education Service that the Board may on the recommendation of the Director-General direct.

(5) The Secretary shall in the performance of functions be under the administrative control of the Director-General.

Divisions and units of the Education Service

23. The Board may create divisions and units in the Education Service with the approval of the Minister for the efficient performance of the functions of the Education Service.

Appointment of other staff

24. (1) The President shall, in accordance with article 195 of the Constitution appoint officers necessary for the proper and effective performance of the functions of the Education Service.

(2) Other public officers may be transferred or seconded to the Education Service or may otherwise give assistance to it.

(3) The Education Service may engage the services of consultants as determined by the Board on the recommendation of the Director-General.

REGIONAL EDUCATION SYSTEM

Regional Education Directorate

Regional Education Directorate

25. (1) There shall be established a Regional Education Directorate in each region.

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(2) The Regional Education Directorate shall be headed by the Regional Director of Education.

(3) The Regional Education Directorate shall act in accordance with guidelines, standards and directions from the Ministry responsible for Education, the Education Service and other regulatory bodies.

Functions of the Regional Education Directorate

26. A Regional Education Directorate shall

- (a) coordinate the activities of the Education Section of the Department of Education, Youth and Sports of the District Assemblies;
- (b) coordinate regional sports and cultural activities in schools in collaboration with the appropriate institutions and authorities;
- (c) exercise jurisdiction in matters of discipline over personnel at the Regional Education Directorate;
- (d) advise and collaborate with the Ministry responsible for Education and the Education Service to implement National Education Policies and the educational strategies;
- (e) exercise oversight responsibility for the management of secondary schools on behalf of the Ministry responsible for Education; and
- (f) facilitate the work of regulatory bodies, Ministries, Departments, Agencies and District Assemblies responsible for the implementation of education policies, standards and guidelines.

Administration of the Education System at the Regional Level

Regional Director of Education

27. (1) There shall be a Regional Director of Education for each region who shall be the head of the Regional Education Directorate.

(2) The President shall, in accordance with article 195 of the Constitution, appoint each Regional Director of Education.

(3) The Regional Director shall hold office on the terms and conditions specified in the letter of appointment.

(4) The Regional Director shall be responsible for

- (a) the coordination of the education policies and activities at the regional level; and
- (b) the day-to-day administration of the Regional Education Directorate.

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(5) The Regional Director shall ensure the implementation of the decisions of the Education Service.

(6) The Regional Director may delegate a function to an officer of the Directorate but shall not be relieved from ultimate responsibility for the performance of the delegated function.

(7) The Regional Director shall liaise with the District Officer in charge of education to facilitate and monitor the delivery of educational activities within the District.

Deputy Regional Director of Education

28. (1) There shall be a Deputy Regional Director of Education for each Regional Directorate of Education.

(2) The President shall, in accordance with article 195 of the Constitution, appoint each Deputy Regional Director.

(3) The Deputy Regional Director shall hold office on the terms and conditions specified in the letter of appointment.

(4) The Deputy Regional Director shall be responsible to the Regional Director in the performance of the functions of the Deputy Regional Director.

(5) The Deputy Regional Director shall

(a) assist the Regional Director in the discharge of duties and perform any other function assigned by the Regional Director; and

(b) perform the functions of the Regional Director in the absence of the Regional Director

Appointment of other staff of the Regional Directorate

29. (1) The President shall, in accordance with article 195 of the Constitution, appoint other staff that are necessary for the proper and effective performance of the functions of a Regional Directorate.

(2) The Board shall be

(a) responsible for the promotion, transfer, discipline and dismissal of the staff of the Regional Directorate of Education; and

(b) responsible for other human resource matters concerned with the Regional Directorate of Education.

(3) The qualifications, standards and other criteria for the staff of a Regional Directorate of Education shall be set by the Education Service.

Funds of the Regional Directorate

30. The budget of a Regional Education Directorate shall form part of the budget of the Education Service.

Secondary Schools

Provision of Public Secondary Schools

31. (1) The Education Service shall construct, equip and maintain public secondary schools.

(2) The Education Service shall provide and ensure that the environment created for secondary schools are user friendly for physically challenged persons and children with special education requirements.

(3) The Education Service shall ensure that a secondary school that delivers education to students with special needs has access to funding to improve upon the existing infrastructure and provide additional requirements where necessary.

Management of Secondary Schools

32. (1) The Education Service shall establish a Board of Governors for the human, material and financial management of each secondary school.

(2) A Board of Governors shall ensure that secondary schools are managed in accordance with laid down rules and regulations.

Composition of Board of Governors

33. (1) A Board of Governors of a secondary school shall consist of
- (a) a chairperson nominated by the Minister in consultation with the Education Service;
 - (b) one representative each of
 - (i) the Ministry responsible for Education;
 - (ii) the Education Service;
 - (iii) the Regional Coordinating Council;
 - (iv) the District Assembly preferably the District Officer in charge of Education within whose jurisdiction the secondary school is located;
 - (v) the Parent-Teacher Association of the secondary school;
 - (vi) the traditional authorities of the area within which the secondary school is located;

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- (vii) the teaching staff of the secondary school;
 - (viii) the non-teaching staff of the secondary school;
 - (ix) the Old Students Association of the secondary school;
 - (x) the headmaster or headmistress of the secondary school; and
- (c) in the case of a secondary school established by a religious body, non-governmental organisation, civil society organisation or any other person, there shall be two representatives of that body.
- (2) The chairperson and members of the Board of Governors shall be appointed by the Minister.
- (3) The Board of Governors shall ensure the proper and effective management of a secondary school.
- (4) The assistant headmaster or headmistress in charge of administration shall be the secretary to the Board of Governors.

Tenure of Board of Governors

- 34.** (1) A member of the Board of Governors shall hold office for three years and may be re-appointed for a further term but shall not serve on the Board of Governors for more than two terms.
- (2) Subsection (1) does not apply to an ex-officio member.
- (3) A member of the Board of Governors other than an ex-officio member, may resign from office in writing addressed to the Minister through the Regional Director of Education.
- (4) A member of the Board of Governors, other than an ex-officio member, who is absent from three consecutive meetings of the Board of Governors without sufficient cause shall cease to be a member.
- (5) Where a member of the Board of Governors is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.
- (6) Where there is a vacancy
- (a) under subsection (3) or (4);
 - (b) as a result of a declaration under subsection (5); or
 - (c) by reason of the death of a member;

the Regional Director of Education shall notify the Minister of the occurrence of any of the events stated in paragraphs (a) to (c) of subsection (6) of section 34 and the Minister shall appoint another person from the relevant category to hold the office for the remainder of the term.

Meetings of the Board of Governors

35. (1) A Board of Governors shall meet at least three times in a year for the conduct of business at the times and in the places determined by the chairperson.

(2) The chairperson shall, at the request in writing of not less than one-third of the membership convene a special meeting of the Board of Governors.

(3) The quorum at a meeting of the Board of Governors is seven members and shall include the headmaster or headmistress or the person acting in that capacity.

(4) The chairperson shall preside at meetings of the Board of Governors and in the absence of the chairperson, a member of the Board of Governors elected by the members present from among their number shall preside.

(5) The Board of Governors may co-opt any person to act as an adviser at its meetings but a co-opted person is not entitled to vote at the meeting.

(6) The validity of the proceedings of the Board of Governors shall not be affected by a vacancy among its members or by a defect in the appointment or qualification of a member.

(7) Except as otherwise expressly provided for under this section, the Board of Governors shall determine the procedure for its meetings.

Disclosure of interest of a member of the Board of Governors

36. (1) A member of the Board of Governors who has an interest in a matter for consideration by the Board of Governors shall disclose in writing the nature of that interest and is disqualified from participating in the deliberations of the Board of Governors in respect of the matter.

(2) Where a member contravenes subsection (1), the chairperson shall notify the Minister who shall inform the President in writing to revoke the appointment of that member.

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(3) Without limiting any further cause of action that may be instituted against the member, the Board of Governors shall recover the benefits derived from a member who contravenes subsection (1) in addition to the revocation of the appointment of the member.

Administration of the Decentralised Education System at the District Level

District Assembly responsible for Basic Schools

37. (1) A District Assembly shall ensure efficient, relevant and quality education in basic schools through basic and functional literacy education to meet the needs of the population in its area of authority.

(2) A District Assembly shall

- (a) oversee the implementation of a decentralised basic school system throughout the District;
- (b) construct, equip and maintain public basic schools in the District;
- (c) establish public basic schools on the recommendation of the District Officer in Charge of Education at the District Assembly; and
- (d) ensure the performance of any other functions as prescribed by the Minister.

(3) The education responsibility of a District Assembly shall be carried out in accordance with the Education Strategic Plan.

District Education Section

38. (1) Each District Assembly shall establish a District Education Section.

(2) The District Education Section shall form part of the Department of Education, Youth and Sports of the District Assembly.

(3) The District Education Section is responsible for

- (a) the efficient delivery of education in basic schools to meet the needs of the areas within the district and in accordance with the educational policy and directives determined by the Minister;
- (b) the provision of school libraries in the District;
- (c) the provision and management of basic schools' education management information systems in the District;
- (d) the preparation, administration and control of budgetary allocations as determined by the District Assembly;

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- (e) the facilitation of the work of a School Management Committee within the area of authority of the District Assembly; and
 - (f) the oversight of the circuit supervisors and the monitoring of their activities.
- (4) The District Education Section shall submit quarterly reports to the District Assembly.
- (5) The budget of the District Education Section of the Department of Education, Youth and Sports shall form part of the composite budget of a District Assembly.
- (6) The basic school education delivery and management processes administered by a District Assembly shall be in accordance with guidelines issued by the regulatory bodies.
- (7) The teaching programmes and academic standards for basic schools are subject to the requirements established by the National Council for Curriculum and Assessment and other regulatory bodies.

Human resource management of the Head and staff of the Education Section

- 39.** (1) The Head of the Local Government Service, in consultation with the Ministry of Education and Education Service shall
- (a) appoint the Head and staff of the District Education Section;
 - (b) be responsible for the promotion, transfer, discipline and dismissal of the staff of the District Education Section; and
 - (c) be responsible for other human resource management matters concerned with the District Education Section.
- (2) The qualifications, standards and other criteria for the appointment of the Head and staff of the District Education Section shall be determined by the Education Service.

Human resource management of head and staff of basic schools

- 40.** (1) The District Officer in charge of Education at the Department of Education, Youth and Sports on behalf of the Head of the Local Government Service and acting on the recommendation of the Head of the District Education Section, is responsible for the appointment, promotion, discipline and dismissal of the head teachers and staff of basic schools in the Districts.

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(2) The qualifications, standards and other criteria for the appointment of the head teacher and staff of a basic school shall be published and periodically reviewed by the Education Service.

(3) The District Officer in charge of the Education Section at the Department of Education, Youth and Sports may only transfer a head teacher or staff of a basic school where the transfer is to another school within the same district.

(4) Inter-District transfer of a head teacher or staff of a basic school may only be undertaken by the Head of the Local Government Service.

Medical examination of school children

41. A District Assembly through its Department of Health shall cause to be undertaken

- (a) the health screening of school children before admission; and
- (b) the regular medical examination of school children.

District Education Oversight Team

42. (1) A District Assembly shall establish a District Education Oversight Team referred to as the Oversight Team that shall report to the Social Services Sub-Committee of the Executive Committee of a District Assembly in the performance of its functions.

- (2) The Oversight Team consists of
- (a) the District Coordinating Director as the chairperson,
 - (b) the chairperson of the Social Services Sub-Committee of the Executive Committee of a District Assembly;
 - (c) the District Officer in Charge of Education at the Department of Education, Youth and Sports;
 - (d) the District Director of Health;
 - (e) one representative of the Conference of Head Teachers of basic schools in the District;
 - (f) one representative of the traditional authorities in the District;
 - (g) one representative of the Parent Teacher Association of Schools in the District, on rotational basis;
 - (h) one representative of the Faith Based Organisations in the District on a rotational basis; and
 - (i) one distinguished female educationist resident in the District.

Functions of the District Education Oversight Team

43. The functions of the District Education Oversight Team are to
- (a) advise the District Chief Executive on the physical, human and material resources for effective delivery of education in basic schools at the District level;
 - (b) oversee the implementation of the decentralised education system at the District and Sub-district level;
 - (c) advise on the discipline of teaching and non-teaching staff at the district and sub-district levels in accordance with approved policies and guidelines;
 - (d) advise the District Chief Executive on any other matters for the effective delivery of the decentralised education system as determined by the District Assembly; and
 - (e) to bring to the attention of the Social Services Sub-Committee of the Executive Committee of the District Assembly reports on persons not attending a course of instruction in the district.

School Management Committee

44. (1) Each District Assembly shall establish a School Management Committee for each basic school in the District.
- (2) The School Management Committee shall strengthen community participation and mobilisation for education delivery.

Composition of School Management Committee

45. (1) The basic School Management Committee consists of
- (a) a chairperson appointed by the District Officer in charge of Education at the Department of Education, Youth and Sports, in consultation with the District Oversight Team;
 - (b) the Head teacher of the School;
 - (c) one representative of the Unit Committee within whose unit the school is located;
 - (d) one representative of the traditional authorities within the area in which the School is located;
 - (e) one representative of the teaching staff of the basic school;
 - (f) two representatives of the Parent Teacher Association of the basic school one of whom is a woman; and
 - (g) in the case of a basic school established by a religious body there shall be two representatives of the religious body.

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(2) Members of the School Management Committee shall be appointed by the District Officer in charge of Education at the Department of Education, Youth and Sports.

(3) The School Management Committee may co-opt a member for a specific assignment.

Tenure of office of members of the School Management Committee

46. A member of a School Management Committee other than the ex-officio member, shall hold office for four years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

Meetings of the School Management Committee

47. (1) The School Management Committee shall meet for the conduct of business at least twice each academic term.

(2) The chairperson shall at the request in writing of not less than one-third of the membership of the School Management Committee, convene a special meeting of the School Management Committee.

Functions of the School Management Committee

48. A School Management Committee of a basic school shall

- (a) exercise oversight responsibility over the Head teacher of the school;
- (b) advise the District Education Section on the appointment, transfer and discipline of teaching and non-teaching staff of the basic school;
- (c) advise the District Education Oversight Team on
 - (i) the supply of text books and other teaching and learning materials for the school;
 - (ii) the condition of school buildings and other infrastructural facilities of the school;
 - (iii) the management and maintenance of the Education Management Information System at the District level;
 - (iv) the provision of teachers and the regular and punctual attendance of teachers and pupils at the school;
 - (v) the proper performance of functions by the staff of the school;
 - (vi) the moral and professional behaviour of the staff and pupils of the school and matters related to general discipline; and

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- (vii) any other matter for the effective and efficient management of the school;
- (d) monitor the activities of the Circuit Supervisors;
- (e) generate funds for the School;
- (f) establish procedures for the management and process for complaints related to teachers, non-teaching staff, learning materials and complaints from teachers;
- (g) ensure the protection of the school, school lands and other facilities of the school; and
- (h) monitor and compile reports on the number of persons not attending a course of instruction within the areas where their schools are located and to deal in the first instance with parents of such persons.

Miscellaneous Matters on the Decentralised Service

Status and conditions of service of the decentralised service

49. (1) Staff of the Decentralised Service that include teachers in basic schools are members of the Education Service employed by the Local Government Service to work for the Ministry responsible for Education, the Education Service and a Regional Coordinating Council or a District Assembly as appropriate.

(2) The conditions of service of the staff of the Education Service employed by the Local Government Service shall not be worse than the conditions of service of staff of the Education Service working in analogous grades.

Transfer of assets

50. The Head of the Local Government Service in consultation with the Ministry responsible for Education and the Board shall determine which assets and liabilities of the Education Service at the district level are to be transferred to a District Assembly on a District-by-District basis.

Private Schools

Private Basic Schools

Establishment of a private basic school

51. (1) A person may establish, manage and operate a private basic school in accordance with guidelines issued and regulations made by the Minister through the National Inspectorate Authority.

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(2) The person referred to in subsection (1), shall apply to the District Assembly in whose jurisdiction the private school is located for approval to establish, manage and operate the private school.

(3) A private basic school shall

- (a) be incorporated as a corporate body with a governing body;
- (b) be staffed with teachers who are professionally qualified and licensed;
- (c) provide the requisite education and training for a child or any other person who qualifies to attend the institution;
- (d) meet the standards set by the regulatory bodies and the Ministry responsible for Education as regards the physical, academic, and any other facilities and requirements of the private basic school;
- (e) operate under the supervision of the District Officer in charge of Education at the Department of Education, Youth and Sports and the regulatory bodies;
- (f) send a copy of its annual report on its programmes and activities to the District Assembly; and
- (g) make available to the District Assembly and any other information in writing requested by the District Assembly.

(4) A private basic school shall be approved by a District Assembly.

(5) A District Assembly may grant provisional approval for a maximum period of one year to enable preparatory work to be done towards the establishment of a private basic school.

(6) The proprietor of a private basic school in existence before the commencement of this Act shall register with a District Assembly, within ninety days after the commencement of this Act.

(7) A proprietor of a private basic school who contravenes a provision of this section commits an offence and is liable on summary conviction to a fine of not more than one thousand five hundred penalty units or to a term of imprisonment of not more than two years or to both.

Change of ownership

52. Where there is a change in the ownership or location of a private school, the proprietor of the school shall notify the District Assembly in writing about the change.

Closure of a private basic school

53. Where there will be a long period of closure of a private basic school, the proprietor of the private basic school shall notify the District Assembly of the impending closure ninety days before it occurs, give reasons for it and provide the proposed date to re-open the private basic school.

Withdrawal of approval

54. (1) A District Assembly may in accordance with the guidelines issued by the Minister through the National Inspectorate Authority withdraw the approval of a private school on the grounds that

- (a) the operation of the private school is detrimental to the physical or moral welfare of students or the pupils who attend the institution; or
- (b) the continuing existence of the private school is against the public interest; or
- (c) any other breach of the guidelines issued by the Minister through the National Inspectorate Authority.

(2) Where approval is withdrawn, the proprietor and the person in charge of the institution shall cease the operation of the private school.

(3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to

- (a) a term of imprisonment of not more than six months or to a fine of not more than two hundred penalty units; and
- (b) a fine of ten penalty units for each day during which the offence continues.

Private Secondary Schools

Establishment of a private secondary school

55. (1) A person may establish, manage and operate a private secondary school in accordance with guidelines issued and regulations made by the Minister through the National Inspectorate Authority.

(2) The person referred to in subsection (1), shall apply to the Ministry of Education and Education Service for approval to establish, manage and operate the private school.

(3) A private secondary school shall

- (a) be incorporated as a corporate body with a governing body;
- (b) be staffed with teachers who are professionally qualified and licensed;

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- (c) provide the requisite education and training for a child or any other person who qualifies to attend the institution;
- (d) meet the standards set by the regulatory bodies and the Ministry responsible for Education as regards the physical, academic, and any other facilities and requirements of the private basic school;
- (e) operate under the supervision of the Regional Director of Education and the regulatory bodies;
- (f) send a copy of its annual report on its programmes and activities to the Ministry of Education and Education Service; and
- (g) make available to the Ministry responsible for Education and the Education Service and any other information in writing requested by the Ministry responsible for Education, the Education Service and Regional Directorate of Education.

(4) A private secondary school shall be approved by the Ministry responsible for Education and the Education Service.

(5) The proprietor of a private secondary school in existence before the commencement of this Act shall register with the Education Service, within ninety days after the commencement of this Act.

(6) A proprietor of a private secondary school who contravenes a provision of this section commits an offence and is liable on summary conviction to a fine of not more than one thousand five hundred penalty units or to a term of imprisonment of not more than two years or to both.

Change of ownership

56. Where there is a change in the ownership or location of a private school, the proprietor of the school shall notify the Ministry responsible for Education or Education Service in writing about the change.

Closure of a private secondary school

57. Where there will be a long period of closure of a private secondary school, the proprietor of the private basic school shall notify the Ministry responsible for Education and the Education Service of the impending closure ninety days before it occurs, give reasons for it and provide the proposed date to re-open the private basic school.

Withdrawal of approval

58. (1) The Ministry responsible for Education and the Education Service may in accordance with the guidelines issued by the Minister through the National Inspectorate Authority withdraw the approval of a private secondary school on the grounds that

- (a) the operation of the private secondary school is detrimental to the physical or moral welfare of students or the pupils who attend the school; or
- (b) the continuing existence of the private school is against the public interest; or
- (c) any other breach of the guidelines issued by the Minister through the National Inspectorate Authority.

(2) Where approval is withdrawn, the proprietor and the person in charge of the school shall cease the operation of the private school.

(3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to

- (a) a term of imprisonment of not more than six months or to a fine of not more than two hundred penalty units; and
- (b) a fine of ten penalty units for each day during which the offence continues.

Miscellaneous Provisions for Private Basic and Secondary Schools

Tax exemption

59. The Government of Ghana may provide a tax exemption to a registered private basic or secondary school.

Relations of private schools with the Ministry responsible for Education

60. The Ministry responsible for Education shall improve and strengthen its relations with private basic and secondary schools by involving them in free and open participation in education programmes.

General Provisions

Grievances

61. (1) A person may petition a District Assembly or the Ministry responsible for Education or the Education Service for review and action

- (a) if dissatisfied with the standard of teaching or learning in a basic or secondary school;
- (b) if the person has cause to suspect discrimination or apathy; or
- (c) for any other sufficient cause.

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(2) The petition to the District Assembly or Ministry responsible for Education and the Education Service shall be after the internal grievance mechanisms of the school has been exhausted.

(3) Where the reason for a petition following a review by the District Assembly or the Ministry responsible for Education or the Education Service is substantiated, the District Assembly or the Ministry responsible for Education or the Education Service shall give the board or governing body responsible for the operation of the school, a reasonable time in writing to correct the substance of the grievance.

(4) Where the board or governing body responsible for the school does not correct the substance of the grievance within the time specified by the District Assembly, the responsible authority may take the appropriate action including closure of the school.

Financial Matters

Funds

- 62.** The funds of the Education Service include
- (a) moneys provided by Parliament;
 - (b) donations, grants and gifts;
 - (c) money derived from investments; and
 - (d) any other moneys that are approved by the Minister responsible for Finance.

Annual estimates

63. (1) The Education Service shall submit to the Minister budget estimates for each financial year not later than three months before the end of the financial year.

(2) The administrative head of each school shall prepare budget estimates for each financial year and present the estimates to the appropriate governing bodies for approval in accordance with the budget guidelines issued by the Minister responsible for Finance.

Internal Audit Unit

64. (1) The Service shall have an Internal Audit Unit in accordance with section 83 of the Public Financial Management Act, 2016 (Act 921).

(2) The Internal Audit Unit shall be headed by an internal auditor who shall be appointed in accordance with the Internal Audit Agency Act, 2003 (Act 658).

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(3) The internal auditor is responsible for the internal audit of the Service.

(4) The internal auditor shall, subject to subsections (3) and (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), at intervals of three months

- (a) prepare and submit to the Board a report of the internal audit carried out during the period of three months immediately preceding the preparation of the reports; and
- (b) make recommendations in each report with respect to matters which appear to the internal auditor as necessary for the conduct of the affairs of the Service.

(5) The internal auditor shall in accordance with subsection (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658) submit a copy of the report prepared under this section to the Minister and the chairperson of the Board.

Accounts and audit

65. (1) The finance department of a District Assembly shall keep proper books of account on basic schools within the districts in the form approved by the Auditor-General.

(2) The Board shall keep proper books of account and proper records in the form approved by the Auditor-General.

(3) The Board shall submit the accounts to the Auditor-General for audit within three months after the end of the financial year.

(4) The Auditor-General shall not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(5) The financial year of the Service is the same as the financial year of the Government.

Annual report and other reports

66. (1) A basic school shall submit an annual report to the District Assembly through the Department of Education, Youth and Sports.

(2) A secondary school shall submit an annual report to the Ministry responsible for Education and the Education Service through the Regional Education Director.

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(3) The Board shall, within one month after receipt of the audit report, submit an annual report to the Minister covering the operations of the Education Service for the year to which the report relates.

(4) The Minister shall within one month after the receipt of the Annual Report submit the report to Parliament with a statement that the Minister considers necessary.

(5) The Board shall also submit to the Minister any other reports which it considers necessary.

Regulations

67. (1). The Minister may, by legislative instrument, in consultation with the Board, make Regulations in respect of

- (a) Information and Communication Technology in education;
- (b) Science and Technology Education;
- (c) guidance and counselling;
- (d) the determination of the relationship between the District Education Section and the education units of the faith based organisations;
- (e) discipline in schools;
- (f) gender equity at each level and programmes of education;
- (g) the provision of adequate facilities for persons with disability or special education;
- (h) the provision of continuous professional training;
- (i) a matter that is required to be prescribed or will give effect to this Act;
- (j) acts that constitute misconduct and grave misconduct and the corresponding penalties;
- (k) the level of autonomy that is commensurate with the achievements of a school; and
- (l) any other matter for the effective implementation of this Act.

(2) On the recommendation of the Board, the Minister may direct the review, re-organisation or re-structuring of the Education Service for the effective execution of the mandate of the Education Service.

Interpretation

68. In this Act, unless the context otherwise requires;
- “Basic School” means a school providing the level of education from kindergarten up to the junior high school level;
 - “Basic Education” means free education in Ghana, including kindergarten, primary, junior high school and senior high school;
 - “Board” means the Board of the Education Service established under section 9 of this Act;
 - “Circuit” means a unit of ten to fifteen schools in a community within a district;
 - “Circuit supervisor” means the person appointed to manage a circuit;
 - “Court” means a court of competent jurisdiction;
 - “District” includes a municipality and a metropolis;
 - “District Assembly” includes a Municipal Assembly and a Metropolitan Assembly;
 - “Educational Management Unit” means a body involved in the administration of education at the basic level;
 - “Education Service” means the Education Service provided for under article 190 of the Constitution and established under this Act;
 - “Faith Based Organisation” means an association of persons, body or organisation that professes adherence to or belief in a system of faith or worship established in pursuance of a religious objective such as the National Catholic Secretariat, the Christian Council, the , the Pentecostal Council, the Federation of Muslim Councils and the Ahmadiyya Mission;
 - “Free education” includes tuition fees, provision of teachers and the essential requirements for quality teaching and learning for the basic level of education provided by the responsible body or authority;
 - “Functions” include powers;

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- “Headmaster” includes headmistress;
“Minister” means the Minister responsible for Education;
“Ministry” means the Ministry responsible for Education;
“Prescribed” means by regulations;
“Private School” means a non-public establishment that provides Basic Education;
“Public” in relation to a school means established or maintained wholly or in part from moneys provided by Parliament from the Consolidated Fund or any other public funds;
“Public interest” includes any right or advantage that ensures or is intended to ensure to the benefit generally of the people of this country;
“Regional Directorate” means the Regional Directorate of Education;
“Register” means the register of teachers;
“Regulatory bodies” means the Commission on Tertiary Education, the National Commission on Technical and Vocational Education and Training, the National Teaching Council, National Inspectorate Authority and National Council for Curriculum and Assessment;
“Rotational basis” means a period where each member of a group serves a turn in the membership of a governing body before the cycle of the group recommences;
“Secondary school” means the middle level of education after junior high school and before tertiary education;
“Special education” means a course of instruction approved by the Minister for a person with disability; and
“Supervisor” includes a circuit supervisor.

Repeals, savings and transitional provisions

69. (1) The Ghana Education Service Act, 1995 (Act 506) and the Education Act, 2008 (Act 778) are repealed.

(2) Despite the repeal of Act 506 and 778 any act lawfully made or done under the repealed enactments and in force immediately before the commencement of this Act shall be considered to have been made or done under this Act.

(3) Until Regulations are made under this Act, the regulations made under the repealed Acts shall continue in force in so far as those regulations are not inconsistent with the provisions of this Act.

PART TWO - TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING SERVICE

Establishment of the Technical and Vocational Education and Training Service

70. (1) There is established by this Act a body corporate with perpetual succession to be known as the Technical and Vocational Education and Training Service.

(2) For the performance of its functions the Service may acquire and hold movable and immovable property, dispose of property and enter into a contract or any other related transaction.

(3) Where there is a hindrance to the acquisition of immovable property, the property may be acquired for the Service under the State Lands Act, 1962 (Act 125) and the cost shall be borne by the Service.

Membership of the Service

71. The members of the Service are

- (a) teaching and non-teaching personnel in the Technical and Vocational Education and Training institutions as specified in the Schedule;
- (b) persons holding positions created under this Act; and
- (c) any other persons that may be employed for the Technical and Vocational Education and Training Service.

Object of the Service

72. The object of the Service is to manage, oversee and implement approved national policies and programmes relating to non-tertiary technical and vocational education and skills development.

Functions of the Service

73. To achieve its object the Service shall

- (a) provide technical and vocational education and training service delivery at the pre-tertiary level;
- (b) implement the curriculum for Technical and Vocational Education and Training programmes in collaboration with industry and the relevant regulatory bodies;
- (c) keep an up to date register of Technical and Vocational Education and Training institutions and trainers in the Service;

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- (d) provide recommendations for Technical and Vocational Education and Training policies and programmes;
- (e) equip learners with relevant employable and entrepreneurial skills for the labour market;
- (f) facilitate practical workplace experience learning and apprenticeships;
- (g) ensure equal emphasis on all sectors of Technical and Vocational Education and Training;
- (h) promote equity and inclusiveness in access and participation in Technical and Vocational Education and Training with special reference to gender and persons with disabilities;
- (i) determine the strategic direction of the Service;
- (j) ensure the effective management and administration of the finances of the Service;
- (k) submit to the Minister recommendations on policies and programmes for Technical and Vocational Education and Training at the non-tertiary level;
- (l) promote collaboration with regulatory bodies in education and other relevant national agencies;
- (m) ensure linkages with industry, both domestic and international;
- (n) advise the Minister on matters that will promote effective delivery of Technical and Vocational Education and Training in Ghana;
- (o) promote further education and training and lifelong learning; and
- (p) perform any other functions that are necessary for the attainment of the object of the Service.

Governing body of the Service

74. (1) The governing body of the Service is a Board consisting of the following:

- (a) a chairperson, with extensive knowledge and considerable experience in education and training nominated by the President;
- (b) the Director-General of the Service;
- (c) one representative not below the rank of a Director from the
 - (i) Ministry responsible for Education;
 - (ii) Ministry responsible for Employment and Labour Relations;

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- (iii) Ministry responsible for Local Government and Rural development;
- (iv) Ghana Employers Association;
- (v) Association of Ghana Industries;
- (vi) Ghana Chamber of Commerce;
- (d) a representative from the National Commission for Technical and Vocational Education and Training; and
- (e) two persons with expertise in Technical and Vocational Education and Training matters nominated by the President at least one of whom is a woman.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

Functions of the Board

75. The Board shall

- (a) establish the code of ethics and conduct for staff of the Service
- (b) provide the scheme and conditions of service for members of the Service;
- (c) be responsible for the promotion, transfer, discipline and dismissal of the staff of the Service;
- (d) determine the qualifications, standards and other criteria for the staff of the Service; and
- (e) ensure that the functions of the Service are performed.

Tenure of office of members of the Board

76. (1) A member of the Board shall hold office for a period of four years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) Subsection (1) does not apply to the ex-officio members of the Board.

(3) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.

(4) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(5) The President may by letter addressed to a member revoke the appointment of that member.

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(6) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability to act would result in the declaration of a vacancy.

(7) Where there is a vacancy

(a) under subsection (3) or (4), or section 78;

(b) as a result of a declaration under subsection (6), or

(c) by reason of the death of a member,

the Minister shall notify the President of the vacancy and the President shall appoint another person to fill the vacancy.

Meetings of the Board

77. (1) The Board shall meet at least once every three months for the despatch of business at the times and in the places determined by the Chairperson.

(2) The chairperson shall at the request in writing of not less than one-third of the members of the Board convene an extraordinary meeting of the Board at a place and time determined by the chairperson.

(3) The quorum of the meeting of the Board shall be not less than two thirds of the members of the Board including the Director General.

(4) The chairperson shall preside at the meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present shall preside.

(5) Matters before the Board shall be decided by a majority of members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a meeting of the Board but a co-opted person shall not vote on a member for decision at the meeting.

(7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this section, the Board may determine the procedure for its meetings.

Disclosure of interest

78. (1) A member of the Board who has an interest in a matter for consideration by the Board shall disclose in writing the nature of that interest and is disqualified from participating in the deliberations of the Board in respect of the matter.

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(2) Where a member contravenes subsection (1), the chairperson shall notify the Minister who shall inform the President in writing to revoke the appointment of that member.

(3) Without limiting any further cause of action that may be instituted against the member, the Board shall recover the benefits derived from a member who contravenes subsection (1) in addition to the revocation of the appointment of the member.

Establishment of Committees

79. (1) The Board shall establish the following committees made up of members and non-members of the Board to make recommendations to the Board for consideration:

- (a) Finance Committee; and
- (b) Physical and Academic infrastructure development committee.

(2) The Board may establish any other committee that the Board considers necessary.

(3) Section 78 applies to a member of a committee of the Board.

(4) The Board shall determine the membership, tenure of office and functions of a committee.

Allowances for members

80. Members of the Board and members of a committee of the Board shall be paid allowances approved by the Minister in consultation with the Minister responsible for Finance.

Ministerial directives

81. The Minister may give policy directives in writing to the Board.

Administrative Provisions

Director-General of the Service

82. (1) There shall be a Director-General of the Service appointed by the President in accordance with article 195 of the Constitution.

(2) The Director-General shall hold office on the terms and conditions specified in the letter of appointment.

(3) The Director-General shall be the head of the Service.

Functions of the Director-General

83. (1) The Director-General is responsible for the day-to-day administration and management of the affairs of the Service and is answerable to the Board in the performance of functions under this Act.

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(2) The Director-General shall perform other functions determined by the Board.

(3) The Director-General may delegate a function to an officer of the Service but shall not be relieved of the ultimate responsibility for the performance of the delegated function.

Deputy Director-Generals

84. (1) The President shall appoint two Deputy Director-Generals in accordance with article 195 of the Constitution.

(2) The Deputy Director-Generals shall hold office on the terms and conditions specified in the letter of appointment.

Functions of the Deputy Director-Generals

85. (1) The Deputy Director-Generals shall be responsible to the Director-General in the performance of functions under this Act.

(2) A Deputy Director-General shall assist the Director-General in the performance of the functions under this Act and shall be responsible for the direction of the Service when the Director-General is absent from office or is otherwise unable to perform the functions of the office.

(3) A Deputy Director-General shall perform other functions as assigned by the Director General.

Secretary to the Board

86. (1) The Director-General shall designate a senior officer of the Service not below the rank of a Director as Secretary to the Board.

(2) The Secretary is answerable to the Director-General in the performance of functions under this Act.

(3) The Secretary shall

(a) arrange the business for and cause to be recorded and keep the minutes of the meetings of the Board, and

(b) perform any other functions that the Director-General in consultation with the Board may assign.

Divisions of the Service

87. The Service shall have the following Divisions:

(a) Trainer and Facilitator Development Division;

(b) Research, Innovation, Monitoring and Evaluation Division;

(c) Infrastructure Development Division;

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- (d) Finance Division;
- (e) Administration Division;
- (f) Human Resource Division;
- (g) Internal Audit Division; and
- (h) any other Division that the Board may consider necessary for the efficient performance of the functions of the Service.

Appointment of other staff

88. (1) The President shall, in accordance with article 195 of the Constitution, appoint other staff of the Service that are necessary for the proper and effective performance of the functions of the Service.

(2) Other public officers may be transferred or seconded to the Service or may be required to give assistance to it.

(3) The Service may engage the services of advisers and consultants on the recommendation of the Director-General.

Delegation of power of appointment

89. The President may in accordance with Article 195 of the Constitution delegate the power of appointment under this Act.

REGIONAL TECHNICAL AND VOCATIONAL EDUCATION SYSTEM

Regional Technical and Vocational Education Office

Regional Technical and Vocational Education Office

90. (1) There shall be established a Regional Technical and Vocational Education Office in each region.

(2) The Regional Technical and Vocational Education Office shall be headed by the Regional Director of Technical and Vocational Education.

(3) The Regional Technical and Vocational Education Office shall act in accordance with guidelines, standards and directions from the Ministry responsible for Education, the Service and other regulatory bodies.

Functions of the Regional Technical and Vocational Education Office

91. A Regional Technical and Vocational Education Office shall perform the following functions in the region:

- (a) coordinate technical and vocational education and training in schools and institutions in collaboration with the appropriate institutions and authorities;

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- (b) exercise jurisdiction in matters of discipline over personnel at the Regional Technical and Vocational Education Office;
- (c) advise and collaborate with the Service to implement the Education Strategic Plan and the educational strategies on Technical and Vocational Education and Training;
- (d) exercise oversight responsibility for the management of technical and vocational education and training institutions on behalf of the Service; and
- (e) facilitate the work of regulatory bodies, Ministries, Departments and Agencies responsible for the implementation of technical and vocational education policies, standards and guidelines.

Regional Director of Technical and Vocational Education

92. (1) There shall be a Regional Director of Technical and Vocational Education for each region who shall be the head of the Regional Technical and Vocational Education Office.

(2) The President shall, in accordance with article 195 of the Constitution, appoint each Regional Director of Technical and Vocational Education.

(3) The Regional Director shall hold office on the terms and conditions specified in the letter of appointment.

(4) The Regional Director shall be responsible for the performance of the functions of the Service at the regional level and shall ensure the implementation of the decisions of the Service.

(5) The Regional Director may delegate a function of the Service to an officer but shall not be relieved from ultimate responsibility for the performance of the delegated function.

Appointment of other staff of the Regional Office

93. The President shall in accordance with article 195 of the Constitution appoint other staff that are necessary for the proper and effective performance of the functions of a Regional Office.

Financial Provisions

Funds of the Service

94. The funds of the Service include

- (a) moneys approved by Parliament;

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- (b) donations, grants and loans;
- (c) fees and charges accruing to the Service in the performance of its functions;
- (d) interest on investments; and
- (e) any other moneys that are approved by the Minister responsible for Finance.

Expenses of the Service

95. The expenses of the Service shall be paid from moneys provided for as funds of the Service under section 94.

Internal Audit Unit

96. (1) The Service shall have an Internal Audit Unit in accordance with section 83 of the Public Financial Management Act, 2016 (Act 921).

(2) The Internal Audit Unit shall be headed by an internal auditor who shall be appointed in accordance with the Internal Audit Agency Act, 2003 (Act 658).

(3) The internal auditor is responsible for the Internal Audit Unit of the Service.

(4) The internal auditor shall, subject to subsections (3) and (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), at intervals of three months

- (a) prepare and submit to the Board a report of the internal audit carried out during the period of three months immediately preceding the preparation of the reports; and
- (b) make recommendations in each report with respect to matters which appear to the internal auditor as necessary for the conduct of the affairs of the Service.

(5) The internal auditor shall in accordance with subsection (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658) submit a copy of the report prepared under this section to the Minister and the chairperson of the Board.

Accounts and audit

97. (1) The Service shall keep proper books of accounts and accounting records in the form approved by the Auditor-General.

(2) The Board shall submit the accounts of the Service to the Auditor-General for audit within three months after the end of the financial year.

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(3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(4) The financial year of the Service is the same as the financial year of the Government.

Annual reports

98. (1) The Board shall, within one month after the receipt of the audit report, submit an annual report to the Minister covering the operations of the Service for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall within one month after the receipt of the annual report submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall submit to the Minister any other reports which it considers necessary.

Tax exemption

99. The Service is exempt from the payment of tax on any income accruing from investments made by the Service.

Miscellaneous Provisions

Regulations

100. The Minister may on the recommendations of the Board by legislative instrument make Regulations for

- (a) gender equity in Technical and Vocational Education and Training;
- (b) the provision of adequate facilities for persons with disability or special education;
- (c) amendments to the Schedule to this Act; and
- (d) any other matters for the effective implementation of this Act.

Transitional Provisions

101. (1) The rights, assets, and liabilities related to Technical and Vocational Education and Training delivery Institution in existence in the various ministries, departments and agencies listed in the Schedule immediately before the coming into force of this Act are transferred to the Service.

(2) Any moneys in a bank account held on behalf of Technical and Vocational Education and Training delivery institutions already in existence immediately before the coming into force of this Act is transferred to the Service.

(3) A person in the employment of a Technical and Vocational Education and Training delivery institution in existence immediately before the coming into force of this Act is deemed to have been employed by the Service established under this Act on the terms and conditions attached to the post held by that person before the commencement of this Act.

Interpretation

102. In this Act, unless the context otherwise requires:

“Board” means the governing body of the Service established under section 74;

“District Officer in charge of Education” means the Education Section Head in the Department of Education, Youth and Sports in each district;

“Infrastructure” means classrooms, libraries, workshops, laboratories and teaching and learning equipment and facilities;

“Minister” means the Minister for whom responsibility for technical and vocational education and training has been assigned;

“non-tertiary” means education and training that is not under tertiary education;

“Regulatory bodies” means the Ghana Tertiary Education Commission, the National Commission for Technical and Vocational Education and Training, the National Inspectorate Authority, the National Teaching Council and the National Council for Curriculum and Assessment;

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- “Service” means the Technical and Vocational Education and Training Service established under section 70;
- “Special education” means a course of instruction approved by the Minister for a person with a disability;
- “Vocational Education and Training” is used as a comprehensive term referring to those aspects of the educational process involving, in addition to general education, the study of technologies and related sciences, and the acquisition of practical skills, attitudes, understanding and knowledge relating to occupations in various sectors of economic and social life; and
- “Trainer and facilitator” includes a teacher, an instructor, a master crafts person who deliver lessons in workforce skills for industry and commerce.

SCHEDULE

The Technical and Vocational Education and Training institutions under the Ministries below shall be absorbed into the Service:

1. Ministry responsible for Education;
2. Ministry responsible for Employment and Labour Relations;
3. Ministry responsible for Gender, Children and Social Protection;
4. Ministry responsible for Youth and Sports;
5. Ministry responsible for Trade and Industry;
6. Ministry responsible for Food and Agriculture;
7. Ministry responsible for Roads and Highways ;
8. Ministry responsible for Tourism, Culture and Creative Arts;
9. Ministry responsible for Local Government and Rural Development;
10. Ministry responsible for Aviation;
11. Ministry responsible for Energy;
12. Ministry responsible for Health;
13. Ministry responsible for Transport;
14. Ministry responsible for Fisheries and Aquaculture;
15. Ministry responsible for Information;
16. Ministry responsible for Lands and Natural Resources;
17. Ministry responsible for Communication;
18. Ministry responsible for Finance; and
19. Ministry responsible for Works and Housing

Pre-Tertiary Education Bill, 2019

Date of *Gazette* notification: 27th February, 2019.

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MEMORANDUM

The object of this Bill is to provide for a decentralised pre-tertiary education system and an educational system to produce individuals with the requisite knowledge, skills and values to become functional and productive citizens for national development, to establish a Technical and Vocational Education and Training Service and to provide for related matters.

Part One of this Bill provides for a decentralised basic education system in Ghana. The Bill also reconciles the conflicting provisions of the Ghana Education Service Act 1995, (Act 506) and the Education Act, 2008 (Act 778) in order to comply with section 31 (3) of Act 778 that requires that *“within twelve months of the coming into force of this Act, the Ghana Education Service Act, 1995 (Act 506) shall be amended to conform with the provisions of this Act”*.

The attempt to decentralise the education sector by devolution in this country has had a very chequered history. The first major attempt to decentralise education by devolution to the regional level under the proposed five Regional Assemblies; Eastern Region, Western Region, Ashanti Region, Northern Territories and Trans-Volta Togoland under the 1957 Independence Constitution fizzled out after the abolition of the Regional Assemblies in 1958.

The second major attempt was made by the government of the National Redemption Council under the Local Administration (Amendment) Decree, 1974 (NRCD 258) when education was listed as one of the sectors to be decentralised by devolution. The Ghana Education Service (Amendment) Decree, 1976 (SMCD 63) however reversed this by recentralising education in 1976. Education was removed from the list of the decentralised Departments of the District Councils and responsibility for the provision of primary and middle school education was vested in the centralised Ghana Education Service.

Under section 29 of the Local Government Law, 1988 (PNDCL 207), education was reinstated as a decentralised sector and the Ghana Education

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Service was listed as the first devolved Department of the twenty-two decentralised Departments of the newly-created Metropolitan, Municipal and District Assemblies in the First Schedule to that Law. The entire First Schedule to PNDCL 207 was however not implemented until after the promulgation of the 1992 Constitution. After that, PNDCL 207 itself was repealed and replaced with the Local Government Act 1993, (Act 462).

When the Local Government Bill 1993 was presented to Parliament, the Ghana Education Service was on the list of the twenty-two decentralised Departments but by the time the Local Government Act, 1993 (Act 462) was enacted, the Ghana Education Service had been left out even though the decentralisation of education had been touted as one of the major reasons for the introduction of the decentralisation programme.

The Ghana Education Service Act, 1995 (Act 506) confirmed the Ghana Education Service as the centralised apex body for pre-tertiary education but had provisions that decentralised some functions and powers to the regional and district levels by way of de-concentration.

Under the Local Government Service Act, 2003 (Act 656), the number of devolved Departments was reduced from twenty-two to seventeen, without the Ghana Education Service on the list of devolved Departments. Instead paragraph (c) of subsection (6) of that Act, provided that the Head of the Local Government Service shall *“establish, with the approval of the Local Government Service Council, systems for effective inter-service and sectoral collaboration and co-operation between the Local Government Service, the Education Service, the Health Service, the Forestry Service and other Services, to harmonise local government programmes and avoid duplication”*.

The next development was that on the 6th January 2009, a day before the Fourth Government of the Fourth Republic left office, the President assented to the Education Act, 2008 (Act 778). The Act transferred more extensive functions and powers to the regional and district offices of the Ghana Education Service, but these were still by way of de-concentration rather than devolution, meaning that power was not given to the

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decentralised bodies. The Act conceded that certain provisions of Act 778 conflicted with some provisions of the Ghana Education Service Act, 1995 (Act 506) by providing in subsection (3) of section 31 that “*within twelve months of the coming into force of this Act, the Ghana Education Service Act, 1995 (Act 506) shall be amended to conform with the provisions of this Act*”.

The genesis of the education sector decentralisation under the Fifth and Sixth Governments of the Fourth Republic is that the Ministry of Education established an Education Sector Decentralisation Committee to make proposals for the implementation of Act 778 and for the decentralisation of education. The Committee engaged consultants whose recommendations, flowing from Act 778, were still in the direction of a de-concentrated rather than a devolved Ghana Education Service.

The Local Government (Departments of District Assemblies) (Commencement) Instrument, 2009 (L.I. 1961) was laid before Parliament in December 2009 but matured and came into force in February 2010. Even though education as a sector was not in the Decentralisation Schedule in Act 462 and was also not in the Schedule to Act 656, the Department of Education, Youth and Sports of the Metropolitan, Municipal and District Assembly made up of the Ghana Education Service, the Ghana Library Board, the National Youth Council and the National Sports Council had remained on the Schedule of Departments of the Metropolitan, Municipal and District Assembly under section 38 of the First Schedule of Act 462. The Schedule to L.I. 1961 in implementing section 164 of Act 462, established the Department of Education, Youth and Sports to commence operating as a Department of the Metropolitan, Municipal and District Assembly. However, since education was no longer a devolved sector, it required a policy decision to restore education to the decentralisation Schedule to enable the Department of Education, Youth and Sports to properly function as a Department of the Metropolitan, Municipal and District Assemblies.

In April 2012, the Inter-Ministerial Coordinating Committee on Decentralisation and subsequently the Cabinet, took the policy decision to decentralise education by devolution and restored the education and

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health sectors to the Decentralisation Schedule. The Education Sector Decentralisation Committee was subsequently reconstituted and converted into an Education Decentralisation Task Force under the auspices of the Inter-Ministerial Coordinating Committee on Decentralisation with a mandate to prepare a roadmap for the decentralisation of education by devolution but more specifically to devolve the Ghana Education Service to the district level to function as part of the Department of Education, Youth and Sports of the Metropolitan, Municipal and District Assembly.

After the Education Sector Decentralisation Committee prepared a roadmap for the zero draft of the decentralised Education Bill, it was then directed by the Inter-Ministerial Coordinating Committee on Decentralisation to team up with the Legislative Review Task Force of the Inter-Ministerial Coordinating Committee on Decentralisation to review and finalise the roadmap and the Education Bill.

The current Bill is therefore the joint effort of the Education Sector Decentralisation Committee and the Legislative Review Task Force of the Inter-Ministerial Coordinating Committee on Decentralisation.

Part Two of the Bill establishes a Technical and Vocational Education and Training Service. The object of the Service is to manage, oversee and implement approved national policies and programmes relating to non-tertiary technical and vocational education and skills development. The new Service will help the Government to shift the emphasis from grammar education to technical and vocational education in Ghana.

Technical and Vocational Education and Training is designed to prepare individuals with skills for a vocation or a specialised occupation. The Technical and Vocational Education and Training sector is recognised as having the potential to stimulate industrial growth and economic growth in Ghana.

Technical and vocational education and training in Ghana has been facing several challenges including poor infrastructure, limited academic

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progression, outdated curriculum and a wide gap between industry and graduates. There is still a lack of harmonisation and coherence in Technical and Vocational Education and Training provision and a negative perception of Technical and Vocational Education and Training. For example, there are at present nineteen ministries operating Technical and Vocational Institutions in the country, with different standards, certification, and budget lines, and little coordination and collaboration between them. This has led to a crisis of confidence in the qualifications awarded to trainees, leaving industry unsure of the value to place on the qualifications of potential employees.

Cabinet has approved a five-year strategic plan for Technical and Vocational Education and Training with the goal of transforming the country's labour force to create employment and enhance productivity. As a result of the new Technical and Vocational Education and Training policies and systems, it is necessary to update the system. This Bill will formally position the Technical and Vocational Education and Training system within the country's education system and improve the efficiency and effectiveness of the sub-sector.

The Government aims to build a skilled workforce for the rapid agricultural, industrial and economic transformation of the country. Skills development raises peoples' productivity and creativity and promotes entrepreneurship, as well as technological advancement. Training is seen as an instrument for social progress, economic development and environmental sustainability. All matters related to technical and vocational education will be handled under the purview of the Director-General of the Technical and Vocational Education and Training Service.

The Bill is in two parts: the Education Service and the decentralised education system; and the Technical and Vocational Education Training and Service.

Clause 1 of the Bill specifies that the system of pre-tertiary education shall be known as basic education and consists of kindergarten, primary school, junior high school and secondary level education. *Clause 2* gives

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effect to the constitutional provision for free, compulsory and universal basic education and for the first time seeks to operationalise the “compulsory” element of that injunction.

Clause 3 emphasises that education at the basic school level is to be decentralised to the District Assemblies; while education at the secondary school level remains centralised under the Ministry of Education and the Education Service.

Clause 4 on “Inclusive Education” provides for the education of children with special education requirements.

Clause 5 establishes the Education Service and *clauses 6 to 18* deals with its membership, functions, governing body and administration. In anticipation of the decentralised nature of the Education Service, *clause 6* defines the membership of the Education Service to consist of the personnel of the Education Service at the headquarters, the personnel of education management units and their supporting staff and other persons who may be employed for the Education Service. *Clause 7* sets out the object of the Education Service and *clause 8* lists the functions of the Education Service. The members of the governing body of the Education Service are provided in *clause 9*. *Clause 10* provides for the functions of the governing board. *Clause 11* provides for the tenure of office of members of the Board and *clause 12* provides for meetings of the Board.

Clause 13 sets out the provisions on disclosure of interest. *Clause 14* provides for the establishment of committees. Allowances are covered in *clause 15* and ministerial directives in *clause 16*. *Clause 17* states that the Board shall collaborate with other statutory bodies in the education sector whilst *clause 18* deals with delegation of the power of appointment.

Clauses 19 and 20 provide for the Director-General of the Education Service and the functions of the Director-General. *Clause 21* provides for a Deputy Director-General and the functions of the Deputy Director-General. The Secretary to the Board is provided for in *clause 22*. The Board may create divisions and units under *clause 23*. Under *clause 24*, other staff may be appointed.

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Cluses 25 and 26 deals with the Regional Education System. Under clause 25, a Regional Education Directorate is established in each region. Clause 26 sets out the functions of the Regional Education Directorate. Clause 27 provides for the position of Regional Director of Education for each region and clause 28 provides for the position of Deputy Regional Director of Education for each Regional Directorate of Education. Under clause 29, other staff may be appointed to the Regional Directorates. Clause 30 provides for the funds of the Regional Directorates.

Clause 31 provides that the Education Service shall construct, equip and maintain public secondary schools. This clause clearly excludes a District Assembly from the responsibility for secondary schools.

Clause 32 provides that the Education Service shall establish a Board of Governors for the management of each public secondary school. Clause 33 provides for the composition of the Board of Governors. Clause 34 sets out the tenure of the Board of Governors. The provisions for the meetings of the Board of Governors are set out in clause 35. Clause 36 sets out the provisions for disclosure of interest of a member of the Board of Governors.

Clause 37 makes District Assemblies responsible for Basic Education in the District with the specific mandate to oversee the implementation of the decentralised Basic education system. This includes the construction, equipment and maintenance of public basic schools and the establishment of public basic schools in the District.

Clause 38 establishes a District Education Section of the Department of Education, Youth and Sports of a District Assembly. Its functions include the efficient delivery of educational services in basic schools to meet the needs of the district and the provision of school libraries. Others are the provision and management of education management information systems, the preparation, administration and control of budgetary allocations and the facilitation of the work of the School Management Committees.

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Human resource management of the Head and staff of the Education Section and basic schools is provided in *clauses* 39 and 40. Under *clause* 41, medical examinations of school children shall be undertaken by District Assemblies.

Clauses 42 and 43 establish the District Education Oversight Team that reports to the Social Services Sub-Committee of the Executive Committee of the District Assembly and sets out its membership and functions.

Clause 44 provides that each District Assembly is to establish a School Management Committee for every public Basic School in the District. *Clauses* 45 to 48 provide for the membership, tenure of office, meetings and functions of the School Management Committee.

Clauses 49 to 50 deal with miscellaneous matters on the decentralised Service. These provide for the status and conditions of service of the decentralised Service. The transfer of assets of the Service at the district level is to be determined by the Ministry of Education, Local Government Service and the Service Council on a District by District basis, *clause* 50.

Clauses 51 to 54 is on private basic schools. These may be established, managed and operated in accordance with guidelines issued and regulations made by the Minister for Education through the National Inspectorate Authority. The clauses also deal with change of ownership, closure and the withdrawal of approval for a private basic school. *Clauses* 55 to 58 is on private secondary schools. The clauses also deal with change of ownership, closure and the withdrawal of approval for a private secondary school. *Clause* 59 provides that the Government may provide a tax exemption to a registered private basic or secondary school. Relations of private schools with the Ministry responsible for Education is provided in *clause* 60.

A grievance procedure is provided for in *clause* 61. This enables a person to petition a District Assembly or the Ministry of Education and Education Service for review and action if dissatisfied with the standard of teaching or learning in a basic or secondary school, if the person suspects discrimination or apathy or for any sufficient cause.

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Clauses 62 to 66 sets out financial matters. Funds are provided for in *clause 62*. The remaining clauses provide provisions on annual estimates, *clause 63*, internal audit unit, *clause 64*, accounts and audit, *clause 65* and annual and other reports, *clause 66*.

Under *clause 67*, the Minister for Education may, by Legislative Instrument and in consultation with the Board, make regulations in respect of the wide range of matters required under the Bill.

Clause 68 is the interpretation clause and *clause 69* provides for repeals, savings and transitional provisions. Under subclause (1) of *clause 68*, the conflicting Ghana Education Service Act, 1995 (Act 506) and the Education Act, 2008 (Act 778) are repealed.

Part Two is on the Technical and Vocational Education and Training Service. *Clause 70* establishes the Technical and Vocational Education and Training Service as a corporate body with perpetual succession. *Clause 71* sets out the membership of the Service. The object of the Service is provided in *clause 72*. *Clause 73* sets out the functions of the Service.

The Governing Body of the Service is a Board consisting of the members set out in *clause 74*. The functions of the Board are provided in *clause 75*. *Clause 76* sets out the tenure of office of members of the Board. The provisions for the meeting of the Board are set out in *clause 77*. Disclosure of interest provisions are provided in *clause 78*. Under *clause 79*, committees may be established. Allowances for members are covered under *clause 80* and the Minister may give policy directives to the Board under *clause 81*.

Administrative provisions are provided in *clauses 82 to 89*. *Clause 82* provides for a Director-General of the Service and *clause 83* sets out the functions of the Director-General. *Clause 84* provides that two deputy director-generals shall be appointed and *clause 85* sets out the functions of the Deputy Director-General. A Secretary to the Board is provided under *clause 86*. The Board shall establish divisions under *clause 87*.

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Other staff may be appointed to the Service under *clause 88*. Delegation of the President's power of appointment is provided in *clause 89*.

Clauses 90 to 93 provide for the regional technical and vocational education system. *Clause 90* establishes a regional technical and vocational education office in each region. The functions of the regional technical and vocational education office are set out in *clause 91*. *Clause 92* provides for a Regional Director of Technical and Vocational Education. Under *clause 93*, other staff may be appointed to the Regional Office.

Financial provisions are provided in *clauses 94 to 97*. The funds of the Service are provided for in *clause 94*. *Clause 95* sets out the provisions for the expenses of the Service. An Internal Audit Unit is provided for under *clause 96*. The Service shall keep accounts and audit under *clause 97*. Provisions for providing annual reports are set out in *clause 98*. The Service is exempt from tax under *clause 99*.

Clauses 100 to 102 provide for miscellaneous provisions including regulations, *clause 100*, transitional provisions, *clause 101*, and interpretation, *clause 102*.

The Schedule lists the Technical and Vocational Education and Training institutions currently under the various Ministries which shall be absorbed into the Service.

HON. DR. MATTHEW OPOKU PREMPEH (MP)
Minister for Education

Date: 19th February, 2019.