

ACT 87

EDUCATION ACT, 1961

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ACT 87

EDUCATION ACT, 1961¹

AN ACT to provide for the development of education and the regulation of the terms and conditions of service of teachers, and for related matters.

*General***1. Public system of education**

(1) The public system of education shall be organised in two progressive stages to be known as primary and middle education and secondary education.

(2) The local education authority for every area shall, as far as its functions extend, contribute towards the spiritual, moral, mental and physical development of the community by securing that efficient education throughout the primary and middle stages is available to meet the needs of the population of its area.

2. Compulsory education

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

(2) A parent who fails to comply with a provision of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty penalty units and in the case of a continuing offence to a fine not exceeding two point five penalty units in respect of each day during which the offence continues.

*Service Committee***3. Establishment of the Service Committee**

(1) There shall be established a terms of service committee which shall advise the Minister on the remuneration and terms and conditions of service of teachers, other than

1. The Act was assented to on 15th November, 1961.

public officers, who are employed in public institutions and of the persons, who are employed in the service of public education, other than public officers.

- (2) The Service Committee shall be appointed by the Minister and shall consist of
- (a) the chairman,
 - (b) three members representing educational units,
 - (c) three members, nominated by the organisation recognised by the Minister as representing the interest of teachers,
 - (d) three members to represent the interests of local authorities, appointed by the Minister after consultation with the Minister responsible for Local Government, and
 - (e) two other members, one to represent the Minister responsible for Education and the other to represent the Public Services Commission.

4. Meetings of the Service Committee

(1) The Service Committee shall meet at the time and places that the chairman shall appoint, by not less than ten days notice in writing to the other members.

(2) The chairman shall preside at the meetings of the Service Committee and in the absence of the chairman the members present shall appoint one of their number to preside.

(3) A question before the Service Committee at a meeting of the Committee shall be decided by a majority of the votes of the members present.

(4) The chairman or, in the absence of the chairman, the member presiding shall have a vote, and in the case of an equality of votes, may exercise a casting vote.

(5) Six members form a quorum at a meeting of the Service Committee.

5. Advisory committee

The Minister may set up a committee to advise the Minister on the educational system or specific aspects of the educational system.

Local Education Authorities

6. Local education authorities

(1) A local authority is the local education authority for the area or part of the area over which it exercises authority.

(2) The standing orders of a local authority in relation to its meetings shall apply to the meetings of the local education authority.

7. Functions of a local education authority

- (1) Subject to this Act, a local education authority shall, in the prescribed manner,
- (a) build, equip and maintain the public primary and middle school, in its area;

- (b) establish the public primary, middle and special schools that are, in the opinion of the Minister, after consultation with the Minister responsible for Local Government, required in its area;
- (c) advise the Minister on matters relating to primary and middle school education in its area and any other matters that are referred to it by the Minister;
- (d) perform in its area the prescribed functions of a local education authority.

(2) A local education authority may perform an educational function approved by the Minister and shall perform an educational function conferred by any other enactment on the local authority of its area.

8. Establishment of education committees

(1) A local education authority shall establish an education committee and may authorise the education committee to perform on its behalf a function imposed or conferred on it with respect to education by this Act or any other enactment.

(2) Before performing a function relating to education, a local education authority shall require a report of its education committee on the performance of the function for approval.

9. Constitution of an education committee

(1) The education committee of the local education authority shall consist of nine members not less than two of whom are members of the local education authority.

(2) A member of the local education authority elected by the local education authority shall be the chairman of the education committee.

(3) The members of the education committee who are not members of the local education authority shall be known as private members.

(4) A person shall not be appointed as a private member unless that person is a suitable person with experience and interest in education nominated by the educational units and appointed by the local education authority.

(5) Subject to this Act, the local education authority appointing an education committee may make, vary and revoke the standing orders relating to the meetings of the education committee.

10. Attendance of chief education officer at meetings

(1) The Director-General may attend the meetings of a local education authority and of its education committee but shall not vote on a matter for decision by the authority or committee.

(2) The local education authority shall send to the chief education officer not less than fourteen days' notice of a meeting of the authority.

11. Restrictions on expenditure

(1) A local education authority shall not, without the prior approval in writing of the Minister, maintain or assist in maintaining or incur an expenditure on an institution other than a public primary, middle or special school.

(2) A local education authority shall not incur an expenditure on education unless it has met its commitments under section 7.

12. Returns

A local education authority shall from time to time provide the chief education officer with the information, returns, accounts and estimates required by the chief education officer.

13. Default by local education authority

(1) Where the Minister is satisfied that a local education authority has made default in the performance of a function imposed or conferred on it by a provision of this Act or any other enactment, the Minister may, by executive instrument, declare the local education authority to be in default and may, by the same or any other executive instrument,

- (a) direct the local education authority to perform that function in the manner and within the time specified in the instrument for the purpose of removing the default, or
- (b) transfer, after consultation with the Minister responsible for Local Government, to a person and for the period specified by the Minister, all or any of the functions of the local education authority in default.

(2) Where a local education authority fails to comply with the terms of an instrument made in accordance with paragraph (a) of subsection (1), the Minister may, after consultation with the Minister responsible for Local Government, order a transfer in accordance with paragraph (b) of that subsection.

(3) Where a local authority is dissolved or suspended from the performance of all of its functions in accordance with a provision of an enactment, the local education authority shall continue to perform its functions as an education authority, unless in the instrument of suspension or dissolution the functions of education are specifically included.

(4) Sections 8 and 9 shall not apply to a local education authority referred to in subsection (3) of this section.

(5) Where a function of a local education authority is transferred from that authority to another person in accordance with paragraph (b) of subsection (1) of this section,

- (a) the local education authority in default shall cease to perform that function for the period determined by the Minister, and
- (b) the expenses incurred by the other person in performing that function shall be paid by the local education authority in default.

(6) A person to whom the functions of a local education authority are transferred is, for the purposes of this Act, the local education authority and accordingly that person may sue and be sued in the name of the local education authority.

*Public Higher Institutions***14. Control of public higher institutions**

Public higher institutions, which are not Government institutions, shall be controlled by a board of governors, committee of management or any other body performing similar functions of a board of governors established under section 15.

15. Establishment of boards of governors

(1) Subject to subsection (4), the Minister shall for every assisted institution by notice in the *Gazette*, establish a board of governors to act in accordance with a constitution and rules approved by the Minister.

(2) A board of governors established for an assisted institution is a body corporate with perpetual succession and a common seal and may hold and manage land for the purposes for which it is established, but shall not dispose of that land without the prior written authority of the President.

(3) The constitution and rules approved by the Minister shall not be altered, amended, varied, added to or revoked, except with the prior written approval of the Minister.

(4) A board of governors or a similar body recognised by the Minister in accordance with a provision of an enactment in force at the commencement of this Act shall be deemed to have been established in accordance with this section.

16. Dissolution of board of governors

(1) The Minister may, for good cause, by notice in the *Gazette*, dissolve a board of governors established under this Act and from the date of the notice or from any other date specified in the notice, the board of governors is disestablished and dissolved.

(2) The property, estate or interest in land held by or vested in a board of governors and the functions of the board of governors at the time of the publication of the notice of dissolution in respect of that board of governors shall, without further authority than this subsection, vest in the Minister and remain so vested until the establishment of a new board of governors in accordance with section 15.

(3) On the establishment of a new board of governors the land and the functions shall be vested in the new board of governors by a written declaration by the Minister to that effect.

*Private Institutions***17. Establishment of private institutions**

(1) A person shall not establish a private institution without the prior approval in writing of the Minister.

(2) A person who establishes a private institution without the prior approval in writing of the Minister commits an offence, and is liable on conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding one year, or to both the fine and the imprisonment.

(3) A person who proposes to establish and conduct a private institution shall, not later than three months before the establishment, make an application to the Minister under this section for the approval of the proposal.

(4) The application shall be in the prescribed form and shall contain the prescribed particulars.

(5) The Minister may grant, or, for sufficient reasons, decline to grant the application.

(6) A person whose application for the approval of a proposal to establish and conduct a private institution has been granted by the Minister may, in the prescribed manner, and subject to this Act, establish and conduct a private institution.

18. Returns to be furnished

(1) The proprietor of a private institution shall, within one month after the date of the establishment of the institution or, in the case of a private institution which is in existence at the date of the commencement of this Act, within one month after the date of the commencement, furnish the chief education officer or the chief technical education officer with the information and return required by that officer.

(2) Where a change in the ownership or location of a private institution occurs or there is a modification in respect of any of the particulars required to be supplied in accordance with subsection (1), other than particulars of the number, names and ages of the pupils attending the institution, the proprietor shall furnish the chief education officer or the chief technical education officer, with a supplementary return containing the new particulars.

(3) Where a private institution remains closed, other than in respect of regular holidays, for a period longer than one month, the proprietor shall furnish the chief education officer or the chief technical education officer, with written reasons for the closing of the institution and inform that officer in writing of the period during which it is likely to remain closed.

(4) The proprietor desiring to reopen the institution, shall furnish a return in accordance with subsection (1).

19. Closing of private institutions

(1) The Minister shall, on being satisfied

- (a) that a private institution is dangerous or potentially dangerous to the physical or moral welfare of the pupils attending it, or
- (b) that its continued existence is against the public interest,

by notice in writing, require the proprietor to close the institution within a specified time and may by the same or any other notice appoint a board of governors who shall have complete control and superintendence of the institution.

(2) Where the Minister appoints a board of governors under subsection (1) the institution concerned becomes a public institution, subject to the payment of compensation to be assessed by the Minister.²

General Provisions Relating to Institutions

20. Power to unite two or more institutions

(1) Where it appears to the Minister that the union of two or more institutions will be conducive to greater economy or efficiency, the Minister may, subject to the conditions specified by the Minister, direct the union of the institutions concerned.

(2) Where an institution, in respect of which the Minister has given a direction in accordance with subsection (1) is not brought into the union in accordance with the direction, that institution shall cease to be a public institution from the date of the Minister's direction and a grant shall not be paid to it from that date or in the case of a private institution the Minister may appoint a board of governors for that institution for the purpose of the desired union.

21. Payment of fees

(1) A fee, other than the payment for the provision of essential books or stationery or of materials required by pupils for use in practical work, shall not be charged in respect of tuition at a public primary, middle or special school.

(2) A fee, other than the prescribed fees, shall not be charged in respect of the education or residence of a pupil or student at a public secondary school or at a public training college.

(3) The Minister may appoint a committee consisting of the chief education officer or the chief technical education officer and two other persons who may investigate the amount, and the payment, of fees in a private institution and make recommendations to the Minister.

(4) A person who contravenes a provision of this section commits an offence and is liable on summary conviction to a fine not exceeding fifty penalty units.

22. Provisions relating to race, language and religion

(1) A person shall not be refused admission as a pupil to, or refused attendance as a pupil at, a school on account of the religious persuasion, nationality, race or language of that pupil or of either of the parents of that pupil.

(2) A test or an enquiry shall not be made of, or concerning, the religious beliefs of pupils or students prior to their admittance to a school or college.

(3) A person attending or desirous of attending a school as a pupil shall not, if the parent objects, be required to attend or to abstain from attending, whether in the institution or elsewhere, a Sunday school or a form of religious worship or observance, or instruction in religious subjects.

2. The words "whose decision thereon shall be final" appearing after the word "Minister" have been omitted in view of clause (3) of article 125 of the Constitution.

(4) A person who contravenes a provision of this section commits an offence and is liable on summary conviction to a fine not exceeding twenty-five penalty units.

23. Restriction on use of premises

The premises of a public institution shall not be used for a purpose which, in the opinion of the Minister, interferes with the purposes for which the institution was established.

24. Restrictions on use of literature

(1) The Minister may in writing direct that a book, newspaper, document or any other printed or written matter or a film, picture or visual or an aural aid or a record of speech or language shall not be treated in a manner, by exhibition, reading, recitation, description, delivery or otherwise as to make known its contents to a pupil in an institution.

(2) A person who fails to comply with a direction given by the Minister in accordance with subsection (1) commits an offence and is liable on summary conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding two hundred and fifty penalty units.

25. Visits and inspection

(1) The chief education officer or the chief technical education officer may at a reasonable time, with or without notice, visit and inspect an institution.

(2) A person who prevents or hinders the chief education officer or the chief technical education officer from visiting or inspecting an institution in accordance with subsection (1), commits an offence and is liable on summary conviction,

- (a) in the case of a first offence, to a fine not exceeding five penalty units, or
- (b) in the case of a second or subsequent offence, to a fine not exceeding twenty-five penalty units.

Finance

26. Public funds

A sum of money shall be provided annually by the Government and shall be administered by the Minister for the purposes of public education in accordance with this Act and the Regulations.

27. Payment of grants

Grants-in-aid for public education, other than grants made by a local education authority to schools which the authority manages, shall,

- (a) in respect of a public institution, be made to a duly constituted and responsible board of governors or, if a board does not exist, to trustees constituted under a trust instrument;
- (b) in any other cases, be made to trustees constituted under a trust instrument.

*Teachers and Teachers' Council***28. Salaries and terms of service**

Subject to this Act, the salaries, terms and conditions of service and discipline of teachers, other than public officers, employed in public institutions shall be as prescribed by the Regulations.

29. Establishment of a teachers' council

(1) The Minister shall establish a teachers' council to advise the Minister on the measures necessary to preserve high standards of conduct in the teaching profession.

(2) The council shall consist of not less than seven active service teachers of whom at least one is a woman.

(3) The members of the council shall be appointed by the Minister in consultation with the teachers' organisation recognised by the Minister.

(4) The members of the council shall serve on the council for a period of one year from the date of their appointment but are eligible for re-appointment.

(5) The members of the council shall, at the first meeting of the council and thereafter whenever the office falls vacant, elect, subject to the approval of the Minister, a chairman from amongst their number.

(6) The chairman shall hold office from the date of election until the expiry of the period referred to in subsection (4) but shall, if re-elected under that subsection, be eligible for re-election as chairman at the expiration of that period.

(7) A member of the council may, after giving fourteen days' notice in writing to the Minister, resign from office.

(8) The powers of the council may be exercised despite a vacancy among its members.

30. Meetings of the teachers' council

(1) The teachers' council shall meet at the times and places that the chief education officer in consultation with the chairman shall appoint, by ten days' notice in writing to the members.

(2) The chairman shall preside at the meetings of the council and in the absence of the chairman the members present shall appoint one of their number to preside.

(3) A question before the council shall be decided by a majority of the votes of members present.

(4) The chairman or, in the absence of the chairman, the member presiding shall have a vote, and in the event of an equality of votes, may exercise a casting vote.

(5) Four members of the Council form a quorum at a meeting of the council.

*Miscellaneous***31. Regulations**

(1) The Minister may, and in so far as the Regulations give powers to, or impose duties on, local authorities, after consultation with the Minister responsible for Local Government, make, by legislative instrument, Regulations dealing with the matters relating to education, and in particular, with respect to:

- (a) the establishment, recognition maintenance and discontinuance of institutions, their administration, control, supervision and management and the procedure in the event of an institution ceasing to be a public institution;
- (b) the organisation, staffing and inspection of institutions and the curriculum and instruction to be given in those institutions;
- (c) the manner in which public education shall be financed, the payment of grants-in-aid by the Government in respect of public education and the conditions under which the grants shall be made;
- (d) the fees chargeable in public institutions, the collection, use and disposal of those fees;
- (e) the admission, registration, transfer, attendance, examination and promotion of pupils and students in public institutions, the selection of pupils and students for public middle, secondary and technical education and teacher training and the allocation of boarding places at public boarding and part-boarding institutions;
- (f) the withdrawal and removal of pupils and students in public institutions and their discipline;
- (g) the registers, records, accounts and similar documents to be kept in institutions; and the returns and information to be rendered by persons and bodies responsible for those institutions;
- (h) the examination, certification, training, instruction, registration, qualifications and bonds of teachers in consultation with the relevant authorities;
- (i) the appointment, employment, discipline, allocation, posting, classification, salaries, allowances, terms and conditions of service of teachers in public institutions, and of other persons engaged in the service of public education; the appointment, salaries, allowances, terms and conditions of service of teachers in private institutions; but the regulations made under this paragraph shall not relate to public officers;³
- (j) the responsibilities and functions of head of public institutions, of boards of governors and trustees of secondary schools, training colleges, any other establishments for higher education and of managers of primary and middle schools;
- (k) the responsibilities, and functions of local education authorities, their control and direction by the Minister;

3. Added by section 2 of the Education (Amendment) Act, 1965 (Act 266).

- (l) the physical welfare and medical inspection of pupils and students in institutions;
- (m) the inspection, maintenance and closure of premises used for purposes of education;
- (n) the standards for the premises and the procedure governing the execution of capital works for the purposes of education, including the grant of a power to pull down buildings erected without prior approval when the Regulations provide for prior approval;
- (o) the returns to be furnished by the proprietors of educational establishments;
- (p) matters which under a provision of this Act are required to be prescribed.

(2) Regulations made under subsection (1) may provide that person convicted of the contravention of, or failure to comply with, a provision of a regulation is liable to a fine not exceeding two hundred penalty units or to a term of imprisonment not exceeding six months or to both the fine and imprisonment and in the case of a continuing contravention of, or failure to comply with, a regulation is liable, in addition, to a fine not exceeding five penalty units for each day during which the contravention or failure to comply continues.

32. Interpretation

In this Act, unless the context otherwise requires,

“assisted institution” means a public secondary school or training college or any other establishment for higher education, which is controlled by a board of governors, committee of management or any other body performing similar functions under a constitution and rules approved by the Minister and which is approved by the Minister for the receipt of grants-in-aid from public funds;

“board of governors” includes a committee of management or any other body performing similar functions of a board of governors;

“chief education officer” includes the person lawfully performing the functions of the chief education officer and a person duly authorised by the chief education officer;

“Director-General” includes the person lawfully performing the functions of the Director-General of the Education Service and a person duly authorised by the chief technical education officer;

“educational unit” means a corporation, a body or religious society which has the management of one or more public institutions and is recognised by the Minister;

“functions” include powers and duties;

“Government institution” means an educational establishment which is managed by the chief education officer or the chief technical education officer;

“grant-in-aid” means money paid from the Government or local government funds in respect of an institution, other than a Government institution, or in respect of the administration of an educational unit;

“institution” means a school, training college or any other educational establishment;

“local authority” includes a District Assembly, a Metropolitan or Municipal Assembly and any other local government authority;

“local government” in relation to funds, means the funds of local authorities;

“manager”, in relation to an institution, means a person who is responsible for the management of the institution;

“middle school” means a school so designated by the Minister;

“Minister” means the Minister responsible for Education;

“parent” includes a guardian;

“primary school” means a school so designated by the Minister;

“private” in relation to an institution, means maintained neither wholly nor in part from the Government or local government funds;

“proprietor” in relation to a private institution, means the person or body of persons responsible for the management of the institution, or in the absence of that person the teacher for the time being in charge, or in the absence of both persons the teacher who has been a member of the staff of the institution for the longest period;

“public” in relation to an institution, means maintained wholly or in part from the Government or local government funds;

“public higher institution” means a Government or assisted institution other than a primary or middle school;

“recognised institution” means an educational establishment which is so recognised by the Minister;

“Regulations” means the Regulations made under this Act;

“school” means an educational establishment intended for the education of not less than ten pupils, assembled for the purpose of receiving regular instruction, other than a Sunday school, an industrial school, a training college or any other establishment intended solely for the education of adults;

“secondary school” means a school, or a department of an institution, which provides courses leading to the attainment of a standard at least equivalent to that of the school certificate examination of the West African Examinations Council;

“special school” means a school providing a course of instruction, approved by the Minister, for children who are blind, deaf and dumb or in any other manner physically handicapped or mentally affected;

“training college” means an establishment for the training of teachers, other than the University of Ghana and the Kwame Nkrumah University or a department of any of those Universities.

33. Exemptions

This Act does not apply to the University of Ghana, the Kwame Nkrumah University or to an institution established under any other enactment.

34. Repeals

*Spent.*⁴

4. The section provided that:

“The following enactments as subsequently amended are hereby repealed:

The Achimota School Ordinance (Cap. 114);

The Education (Southern Ghana and Ashanti) Ordinance (Cap. 121);

The Education (Northern and Upper Regions) Ordinance (Cap. 122);

Provided that any office specified in the Second Schedule to the Achimota School Ordinance (Cap. 114) at the commencement of this Act shall continue to be a pensionable office within the meaning of the Pensions Ordinance (Cap. 30) and accordingly the provisions of the Pensions Ordinance shall continue to apply in the same way and manner as they did apply under the Achimota School Ordinance to any person holding such office and confirmed therein at the commencement of this Act notwithstanding the repeal of the Achimota School Ordinance.”