

EDUCATION AND TRAINING ACT**Principal Act**

Act. No. 1974-11		<i>Commencement</i>	26.4.1974
		<i>Assent</i>	28.4.1974
	Amending enactments	Relevant current provisions	Commencement date
Acts.	1976-24	s. 73	
	1982-33	ss. 31, 82(1) and 83	
	1984-01	s. 73(1), (2A), (2B) and (2C)	30.4.1984
	1986-09	Sch	17.7.1986
	1987-34	ss. 2(1), 54(1), 56(1) and (5), 58(1) and 59	1.2.1988
	1990-25	ss. 50 and 73(1) and (2)	7.6.1990
	1997-25	ss. 2(1), 54(1), 56(1) and (5), 58(1) and 59	21.8.1997
	2001-18	ss. 1, 82(1) and (1A)	31.10.2002
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Transposing:

Directive 2001/55/EC

Directive 2003/9/EC

Directive 2004/83/EC

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AN ACT TO CONSOLIDATE THE LAW RELATING TO EDUCATION AND TRAINING.

Short title.

1. This Act may be cited as the Education and Training Act.

PART I.
INTERPRETATION AND APPLICATION.

Interpretation.

2. (1) In this Act, unless the context otherwise requires—

“aided school” means a school receiving a grant under the provisions of section 38;

“Authority” means the Gibraltar Health Authority;

“building” includes part of a building;

“college” includes any institution which for the time being provides further technical or commercial education;

“Director” means the Director of Education;

“Education Council” means the Education Council established by section 14;

“further education” includes—

- (a) full-time and part-time education for persons over compulsory school age; and
- (b) leisure-time occupation in such organized cultural training and recreative activities as are suited to their requirements for any persons over compulsory school age who are able and willing to profit from such training and activities;

“Government school” means a school provided, maintained, staffed and managed by the Government;

“headteacher” includes the principal or other head of a school;

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“independent school” means an institution, other than a Government school or a special school which provides for ten or more persons, nursery, primary, secondary or further education or other educational course and in the case of instruction given by means of correspondence delivered by hand or through the post any institution which prepares the instruction or which examines the work of the pupils and includes an aided school;

“medical inspection” means inspection by any duly qualified medical practitioner or dentist;

“Minister” means the Minister with responsibility for education;

“notifiable disease” has the meaning assigned thereto by section 3 of the Public Health Act;

“nursery school” means a school which is used mainly for the purpose of providing education for children who have not started primary education;

“parent” includes a guardian and every person who has the actual custody of a child;

“premises” include any detached playing fields;

“primary education” means full-time education suitable to the requirements of children between the approximate ages of five and twelve years;

“proprietor” means the person or body of persons responsible for the management of a school;

“Public Health Director” means the registered medical practitioner appointed as such by the Authority;

“pupil” where used without qualification, means a person of any age for whom education is required to be provided under this Act;

“registered” means registered under this Act;

“registered pupil” means a pupil registered as such in the register kept in accordance with the requirements of this Act, but does not include any child who has been withdrawn from the school in the prescribed manner;

“school” means an institution, organisation, college or place which provides or where there is provided for ten or more persons during any one day, whether or not at the same time, nursery school, primary, secondary, further education or other educational course, and in the case of instruction given by means of correspondence delivered by hand or through the postal services, the institution or place where the instruction is prepared or where the work of the pupils is received, dispatched, or examined;

“school premises” includes places used for the purposes of a school and school recreation grounds, boarding houses, playing fields and playing grounds;

“secondary education” means education such as would normally be suitable for pupils from the age of twelve years onwards;

“special school” means a school, wherein special education treatment is provided for pupils suffering from any disability of mind or body;

“statutory education system” means the educational system established, maintained or operated under the provisions of this Act;

“young person” means a person over the age of fifteen years and under the age of eighteen years.

(2) Where any school provides any evening instruction, that is to say, instruction of which the greater part in any one day takes place after 6 p.m., there shall be deemed to be a separate school in respect of such evening instruction and such separate school shall be separately registered under this Act.

(3) So long as any school is used for providing both primary and secondary education, references in this Act to primary schools shall be construed as including references to that school, and references therein to secondary schools shall be construed as excluding any reference thereto:

Provided that where the primary education provided in any such school is provided in a separate department, the Minister may direct that for purposes of this Act the school shall be deemed to be a secondary school, and such references shall be construed accordingly.

(4) For the purposes of this Act relating to compulsory education a pupil whose fifteenth birthday occurs during a school term shall be deemed to attain that age on the last day of such term.

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(5) The school year shall be the period of twelve months ending on the thirty-first day of August in any year, or such other day as may be prescribed.

Exemption of solely religious schools.

3. Any school in which the education is solely religious shall, except in such case and to such extent as the Minister may by Order in the Gazette specify, be exempt from the provisions of this Act.

Exemption of Ministry of Defence Schools.

4. (1) Any school established by the Ministry of Defence shall be exempt from the provisions of this Act.

(2) Where by or under subsection (1) any Part or provision of this Act applies to a school established by the Ministry of Defence, such part or provision shall apply to such school as if such school were a Government school; and any reference therein to the Director shall be construed as a reference to the person for the time being having charge of the said school.

Gibraltar and Dockyard Technical College.

5. For the purposes of this Act the Gibraltar and Dockyard Technical College shall, in matters relating—

- (a) to parents and pupils, be deemed to be a Government school;
- (b) to maintenance, staffing and management be subject to agreement between the Government and the Ministry of Defence, Navy.

Power of exemption.

6. (1) The Minister may by order in the Gazette exempt for such period, if any, as may be specified in the order, either wholly or in part from the provisions of this Act and any regulations made thereunder, and either absolutely or subject to such conditions as he may think fit to impose, any school or class or category of school, and the Committee, teachers and pupils thereof.

(2) The Director may, by order under his hand, exempt either wholly or in part, from the provisions of this Act and any regulations made thereunder, and either absolutely or subject to such conditions as he may think fit to impose, any school in which the education provided consists only of short series of lectures, or short courses of instruction in individual subjects or

topics or in which the hours of academic instruction in each week total less than five, and, in like manner, may exempt the Committee, teachers or pupils thereof.

PART II.
ADMINISTRATION.

Director of Education.

7. (1) The Government shall appoint a Director of Education and such other officers subordinate to the Director as the Government may consider necessary.

(2) There shall be a Department of Education which shall be under the control of the Director.

Director to promote education.

8. (1) Subject to any general or special directions of the Minister, the Director shall be charged with control of the educational system and with the superintendence of matters relating to education in Gibraltar.

(2) It shall be the duty of the Director subject to the directions of the Minister—

- (a) to promote the education of the people of Gibraltar and to control and direct educational policy;
- (b) to administer and inspect all Government schools in Gibraltar;
- (c) to ensure the due administration of the provisions of this Act and any subsidiary legislation made thereunder;
- (d) to report to the Education Council annually on the progress of education in Gibraltar;
- (e) to the best of his ability to ensure the supply of suitably qualified teachers sufficient in number to meet the due requirements of education in Gibraltar;
- (f) in liaison with the Director of Medical and Health Services to provide for the medical inspection and treatment of pupils;
- (g) to provide for the education of children who require special educational treatment;

- (h) to inspect all independent schools and nursery schools;
- (i) to submit to the Minister before the end of each calendar year an annual report describing the work of the Department and the state of education in Gibraltar during the school year ending in such calendar year together with a statement showing the expenditure incurred by the Department on educational work in that year, a report on the condition of school buildings (with particular reference to fire and safety precautions, sanitation and equipment) and such other information as the Minister may direct.

Report to the Assembly.

9. The Minister shall cause every annual report received by him under section 8 to be laid before the Parliament at the next convenient meeting of the Assembly following the receipt by him of such report.

Delegation of Director's powers.

10. The functions of the Director under the provisions of this Act and any subsidiary legislation made thereunder may be exercised and discharged by such other officers of the Department of Education as may be authorized by the Director in that behalf.

Register of independent schools.

11. (1) The Director shall keep a register of all independent schools for the establishment or conduct of which approval has been granted under the provisions of Part V and shall enter in the register any such information and particulars as are required to be furnished to him under the provisions of this Act and as he may deem necessary to the proper keeping of the register, or as may be prescribed.

(2) Whenever there occurs any change in the ownership of an independent school or any change or modification in respect of any information or particulars relating to such a school and required by this Act to be furnished to the Director, the proprietor of such school shall forthwith furnish the Director with full information in regard to any such change or modification.

(3) The register of independent schools shall be open to public inspection at all reasonable times.

Additional information to be furnished in respect of registered schools.

12. The proprietor of any school which has been registered under the provisions of section 11 shall furnish the Director, at such intervals as the Director may require, with such particulars as may be prescribed in regard to—

- (a) the number of days on which the school was open;
- (b) the number of registered pupils on the roll of the school; and
- (c) the average attendance of registered pupils at the school.

Registration of pupils.

13. The proprietor of every independent school and the Director in relation to every Government school, shall cause to be kept a register containing such particulars as may be prescribed with respect to all persons of compulsory school age who are pupils at the school, and every such proprietor shall produce such register for inspection by the Director or any person thereto authorized by the Director whenever required so to do by the Director or such person.

Education Council.

14. (1) There shall be an Education Council to advise the Minister upon such matters connected with educational theory and practice as the Council shall think fit, and upon any questions referred to the Council by the Minister.

- (2) The Education Council shall consist of—
- (a) the Minister for the time being responsible for education, as Chairman;
 - (b) six members appointed by the Minister, one of whom shall be nominated by the Roman Catholic Bishop of Gibraltar, from amongst persons who have had experience of education.

(3) The Director, or any officer of the Department of Education authorized by the Director in that behalf, shall be the secretary to the Education Council.

(4) Subject to the provisions of such regulations as may be prescribed, the Education Council shall regulate its own procedure.

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(5) The Education Council shall meet at intervals of not more than three months.

Duties of Education Council.

15. It shall be the duty of the Education Council, acting where necessary or expedient through any appropriate committee of the Council—

- (a) to advise the Government in regard to educational policy;
- (b) to submit its views and recommendations on any question or matter relating to education which the Minister may refer to it.

PART III. POLICY.

General principles of education policy.

16. In the exercise of all the powers and duties conferred and imposed by this Act regard shall be had, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, to the following general principles:—

- (a) pupils shall be educated in accordance with the wishes of their parents;
- (b) there shall be an equality of educational opportunity for all, and pupils shall be educated according to their abilities, aptitudes and needs;
- (c) there shall be a fostering of a sense of community and awareness and understanding of other peoples of the world;
- (d) regard shall be had to the requirements of the community and to its spiritual, moral, mental and physical development in endeavours to produce well-educated and well-trained men and women;
- (e) the constant improvement of educational standards;
- (f) there shall so far as is possible be a progressive development of all educational institutions.

General powers in relation to education policy.

17. In accordance with the general principles set out in section 16 the Government may—

- (a) establish schools in such places as he may think fit;
- (b) classify such schools, and maintain or assist in maintaining schools, whether established by the Government, or not;
- (c) take such action as he may consider necessary to ensure that there is a sufficient supply of trained and qualified teachers to meet the needs of educational institutions, and to provide for their in-service training after appointment;
- (d) establish, maintain or assist in maintaining such technical institutions and training centres as he may consider necessary for technical and vocational education;
- (e) provide or assist in providing such facilities for further education as he may think fit;
- (f) subject to such conditions as may be prescribed, render to any pupil or class of pupils such forms of assistance as may be necessary to enable such pupil or class of pupils to take full advantage of the educational facilities available;
- (g) provide for the granting of scholarships, exhibitions, bursaries and other financial assistance, including loans for further education and higher education; and
- (h) provide such additional facilities as may be desirable.

PART IV.

THE STATUTORY SYSTEM OF EDUCATION.

Stages of educational system.

18. The educational system of Gibraltar shall be organized in three progressive stages, to be known as—

- (a) primary education;
- (b) secondary education; and
- (c) further education.

Provision of primary and secondary schools.

19. The Minister shall to the best of his endeavours ensure that there shall be sufficient schools—

- (a) to provide primary education, that is to say, full-time education for all children between the age of five and twelve;
- (b) to provide secondary education, that is to say, full-time education for all children between the age of twelve and fifteen.

Powers to establish primary and secondary schools.

20. For the purposes of this Act the Minister may—

- (a) establish, maintain, and discontinue primary and secondary schools; and
- (b) assist any school which is not maintained by the Government, including all independent schools.

Use of school premises.

21. The Director shall ensure that the premises of schools so far as is possible shall be made available to meet the social, educational, recreational and vocational needs of the whole community, in so far as such needs do not interfere with the primary purpose for which such premises are provided.

School committees.

22. (1) There shall be a school committee in respect of every Government School:

Provided that the Minister may by order place two or more such schools under the responsibility of one school committee, whether or not such schools are all primary schools or all secondary schools, or partly primary and partly secondary.

(2) The provisions of Parts I and III of the Schedule shall have effect with respect to the constitution and proceedings of school committees.

Appointment, dismissal and transfer of teachers.

23. (1) Subject to the provisions of Chapter VII of the Constitution and the Public Service Commission Act, no person shall be appointed to be a teacher on the permanent establishment in Government schools except by

the Minister, and no person shall be dismissed except with the approval of the Minister.

(2) The Director may in his discretion transfer a teacher between Government schools provided that such transfer does not involve the teacher in loss of salary or seniority.

Appointment of headteachers.

24. (1) Subject to the provisions of this Act and any regulations thereunder, there shall be appointed in respect of each Government school a headteacher who shall control the details of the curriculum, management and discipline of the school and shall supervise the teaching and non-teaching staff thereof.

(2) For the purposes of carrying out his duties a headteacher shall keep an admission register, a school log book, and such other registers, books and records as the Director may require or as may be prescribed.

Power of suspension.

25. Subject to such regulations as may be prescribed a headteacher of a school in the exercise of his disciplinary functions, shall have the power of suspending pupils from such school for any cause which he considers adequate, but on taking any such action he shall within three days make a report thereof to the Director.

Secular instruction in Government schools.

26. (1) In every Government school the secular instruction given to the pupils shall, save in so far as may be otherwise provided in this Act, be under the control of the Director.

(2) The power to control the secular instruction provided in any school shall include power, subject to such regulation as may be prescribed—

- (a) to determine the times at which school sessions shall begin and end in any day;
- (b) to determine the times at which the school terms shall begin and end;
- (c) to determine the school holidays; and
- (d) to require that pupils in attendance at the school shall attend any class not conducted on the school premises for the purpose

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of receiving instruction or training included in the secular curriculum of the school.

General duties relating to further education.

27. The Minister shall ensure that there shall be available adequate facilities for further education, that is to say—

- (a) full-time and part-time education for persons over compulsory school age;
- (b) leisure time occupation, in such organized cultural training and recreative activities as are suited to their requirements for persons over compulsory school age who are able and willing to profit by the facilities provided for that purpose; and
- (c) technical and commercial education.

Powers to establish institutions of further education.

28. (1) The Minister may establish and provide for the conduct of such colleges and other institutions of further education as he may deem necessary.

(2) Nothing in subsection (1) shall preclude the Minister from providing, outside institutions of further education, or in association with existing schools or other educational establishments, such special classes or courses for persons over compulsory school age as he may deem necessary from time to time, for the purpose of providing such physical, vocational, recreational or academic training as will enable them to develop their various aptitudes and capabilities and will prepare them for the responsibilities of citizenship.

Committees for colleges of further education.

29. (1) There shall be in respect of every college of further education established under this Act a committee to be responsible for the management of such college and to advise the Minister on the further education provided therein.

(2) The provisions of Parts II and III of the Schedule shall have effect with respect to the constitution and proceedings of any committee for any college of further education.

Revision of facilities for recreation, etc.

30. (1) It shall be the duty of the Director to secure that the facilities for primary, secondary and further education include adequate facilities for recreation and social and physical training and for that purpose the Director with the approval of the Minister may establish, maintain and manage, or assist in the establishment, maintenance and management of camps, holiday classes, playing fields, play centres, youth clubs, youth centres, and other places (including playgrounds, gymnasiums and swimming baths not appropriated to any school or college), at which facilities for recreation and for such training as aforesaid are available for persons for whom primary, secondary or further education is provided, and may organize games, expeditions and other activities for such persons, and may defray or contribute towards the expenses thereof.

(2) The Director in making arrangements for the provision of facilities or the organization of activities under the powers conferred on him by subsection (1) shall, in particular, have regard to the expediency of co-operating with any voluntary societies or bodies whose objects include the provision of facilities or the organization of activities of a similar character.

(3) The facilities specified in subsection (1) may include facilities outside Gibraltar.

PART V. INDEPENDENT SCHOOLS.

Approval for opening of independent schools.

31. (1) No person shall establish or conduct an independent school unless he shall first have obtained the approval of the Director.

(2) Any person who intends to establish or conduct an independent school shall apply in writing to the Director for the approval required by this section and shall furnish the Director with a statement containing such particulars relating to the school and to any matter connected therewith as may be prescribed.

(3) The Director shall not grant approval for the establishment or conduct of an independent school unless he is satisfied that the following requirements will be complied with, that is to say—

- (a) the school premises shall be suitable for a school;
- (b) the school premises shall be adequate and suitable having regard to the number, ages and sex of the pupils to be accommodated therein;

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- (c) efficient and suitable instruction shall be provided at the school, having regard to the ages and sex of the pupils for whom instruction is to be provided;
- (d) every person engaged in teaching in the school shall be a person of suitable character, educational qualifications and training, having regard to the purposes for which he is to be employed;
- (e) the need for such school shall be established;
- (f) there shall be no unreasonable refusal of admission of pupils to the school; and
- (g) such other requirements as may be prescribed.

(4) Any person to whom the Director has refused to grant approval for the establishment or conduct of an independent school may appeal against such refusal to the Minister, who may confirm the refusal or may direct the Director to grant the approval for which application was made.

Complaints.

32. (1) If at any time the Director is satisfied that any independent school is in such condition or is being so conducted that any of the requirements specified in section 31(3) are not being complied with, he shall serve upon the proprietor of the school a notice of complaint stating the grounds of complaint together with full particulars of the matters complained of, and, unless any of such matters are stated in the notice to be in the opinion of the Director irremediable, the notice shall specify the measures necessary in the opinion of the Director to remedy the matters complained of. The proprietor of such school shall thereupon commence and proceed to complete such measures in such time as may be reasonable having regard to the measures required to be taken.

(2) If it is alleged by any notice of complaint served under the provisions of this section that any person employed as a teacher at the school is not a proper person to be a teacher in any school, that person shall be named in the notice and the particulars contained in the notice shall specify the grounds of the allegation, and a copy of the notice shall be served upon him.

Determination of complaints.

33. (1) Any person upon whom a notice of complaint or a copy of such notice is served under the provisions of section 32 may, within one month of

such service, appeal therefrom to the Minister, and on any such appeal the Minister may—

- (a) order that the complaint be annulled;
- (b) order that the school in respect of which the notice of complaint was served be closed;
- (c) order that the school be closed unless the requirements of the notice, subject to such modifications, if any, as may be specified in the order, are complied with to the satisfaction of the Director before the expiration of such time as may be specified in the order;
- (d) if satisfied that the premises alleged by the notice of complaint to be unsuitable for use as a school or any part of such premises are in fact unsuitable for such use, by order disqualify the premises or part from being so used, or, if satisfied that the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages and sex of the pupils attending the school, by order disqualify the premises from being used as a school for pupils exceeding such number or of such age or sex as may be specified in the order; or
- (e) if satisfied that any person alleged by the notice of complaint to be a person who is not proper to be a teacher in any school is in fact such a person, by order disqualify that person from being a teacher in any school.

(2) Where a notice of complaint has been served under the provisions of this Part on the proprietor of any independent school and the proprietor has not, within one month from such service, appealed therefrom to the Minister, the Director shall have power to make any order which the Minister would have had power to make if the proprietor had so appealed:

Provided that, if it was alleged by the notice of complaint that any person employed as a teacher at the school was not a proper person to be a teacher in any school and that person has, within one month of the service upon him of a copy of the notice, appealed therefrom to the Minister, the Director shall not have power to make an order requiring his dismissal or disqualifying him from being a teacher in any school.

Removal of disqualifications.

34. (1) If on the application of any person the Director is satisfied that any disqualification imposed by an order made under this Part is, by reason of

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any change of circumstances, no longer necessary, the Director may by order remove the disqualification.

(2) Any person who is aggrieved by the refusal of the Director to remove a disqualification so imposed may, within seven days after the refusal has been communicated to him, appeal to the Minister.

Application of Act to independent schools.

35. The Minister may by order apply the provisions of this Act relating to compulsory education, medical inspection and treatment of pupils with such modifications as may be prescribed by such order, to all independent schools as if such schools were Government schools.

Rights of registered independent schools.

36. Save as provided in this Act, every independent school on the Register shall have complete control over—

- (a) the secular instruction provided at the school;
- (b) the religious instruction provided at the school;
- (c) the terms of appointment, conditions of service, and dismissal of teachers;
- (d) the enrolment, promotion and all other matters concerning the pupils of the school; and
- (e) all matters pertaining to the internal organization and discipline of the school.

Returns.

37. The proprietor of every independent school shall annually, in such form as may be prescribed, furnish the Minister with a return with such information regarding the school as may be required by the Minister for the purposes of this Part.

PART VI. GRANTS-IN-AID.

Grants-in-aid.

38. (1) Subject to the provisions of this Act, the Government may make grants from public funds to the proprietor of any independent or special

school to which, in the opinion of the Government, it is proper to make such a grant.

(2) Every such grant shall be made subject to such conditions as may be prescribed or be agreed, in relation to any school, with the proprietor of the school.

(3) A grant made under the provisions of this Part may, in relation to any school, be a recurrent payment, made at annual or other intervals, for the maintenance or partial maintenance of the school or may be a single payment for any specific purpose in connection with the school. Any such grant shall be of such amount as in the opinion of the Government is sufficient, having regard to the financial state of the school, to enable the proprietor to comply with the requirements of the Director.

Registers and accounts.

39. The proprietor of every aided school shall—

- (a) keep such registers and records as may be prescribed or as the Director may require in relation to any school and produce them for inspection at any time when called upon by the Director so to do;
- (b) furnish the Director with such information and particulars relating to the conduct, management, equipment and condition of the school and school premises, the pupils in attendance thereat and the teachers employed therein as may be prescribed or as the Director may require in relation to any school;
- (c) keep such accounts and furnish the Director with statements containing such particulars in regard to the expenditure of grants made from public funds as the Director may require.

Employment, dismissal and remuneration of teachers.

40. (1) No teacher shall be employed in any aided school or be dismissed from such employment without the approval of the Director first obtained.

(2) The rate of remuneration paid to any teacher in an aided school shall be not less than such rate as may be approved by the Director.

PART VII. **RELIGIOUS EDUCATION.**

Advisory Council on religious education.

41. (1) There shall be an Advisory Council on Religious Education to advise the Minister upon matters connected with the religious character of the schools, religious worship, religious instruction and the provision of lectures for teachers.

(2) The Advisory Council on Religious Education shall consist of—

- (a) the Roman Catholic Bishop of Gibraltar;
- (b) the Dean of Gibraltar;
- (c) the President of the Jewish Community;
- (d) a representative of churches of the Protestant Community, appointed by the Minister;
- (e) three persons appointed by the Roman Catholic Bishop of Gibraltar.

(3) In the absence of an ex officio member of the Council, his representative may attend.

(4) The Director or his representative shall be secretary to the Advisory Council on Religious Education and shall make such representations to the Education Council on matters of religious education as the Advisory Council shall require.

General provisions on religious education.

42. (1) Subject to the provisions of this section, sufficient and suitable religious education within the school curriculum shall be provided in all Government schools.

(2) No person shall be appointed to give religious instruction except with the approval of the Advisory Council and of the head of the religious denomination of the instruction to be given.

(3) No directions shall be given by the Minister as to secular instruction to be given to pupils in schools, so as to interfere with the provision of reasonable facilities for religious instruction and religious worship in the school in school hours.

(4) If the parent or guardian of any pupil in attendance at any Government school requests in writing that such pupil be excused from attendance at religious worship or religious instruction at the school or from

both, then, until the request is withdrawn, the pupil shall be excused from such attendance accordingly:

Provided that excuse from such attendance shall not alter the pupil's liability to come to school at the normal starting time or to remain at school during normal school hours.

(5) As far as is practicable, every pupil in attendance at any special school shall attend religious worship and instruction, or shall be withdrawn from such religious worship and instruction in accordance with the wishes of his parent or guardian.

Ministers of religion shall be authorized to give religious instruction.

43. (1) The Director in the case of Government schools and the proprietor in relation to independent schools may (subject to the provisions of section 42) authorize any minister of religion or other person with suitable teaching qualifications of the same religious belief appointed by the appropriate religious authority for the purpose, to give religious instructions in such schools at such times and subject to such conditions as shall be mutually agreed, to pupils in attendance at such schools.

(2) The head of the appropriate religious denomination and his nominee shall have free access to any school referred to in subsection (1) for all purposes connected with the supervision of such religious instruction.

Saving as to position of teachers.

44. In accordance with the provisions of Chapter I of the Constitution—

- (a) no person shall be disqualified by reason of his religious opinions, or of his attending or omitting to attend religious worship, from being a teacher in a Government school, or from being otherwise employed for the purposes of such a school; and
- (b) no teacher in any Government school shall be required to give religious instruction or receive any less emolument or be deprived of or disqualified for, any promotion or other advantage by reason of the fact that he does or does not give religious instruction, or by reason of his religious opinion or of his attending or omitting to attend religious worship.

PART VIII.
SPECIAL EDUCATION.

Education of pupils requiring special educational treatment.

45. The Minister shall make provision for the education of pupils with physical or mental disabilities in special schools, either within or outside Gibraltar or, where the disability is not serious, in a Government school, in the house of the pupils, or in hospital, or in such other place as may be prescribed or as may be approved by the Minister, and such pupils if of compulsory school age as hereinafter defined shall be subject to the provisions of Part IX unless the Director of Medical and Health Services has certified to the Director that in the interest of the pupil he shall not be so subject or in such other cases as the Director may think fit.

Reception in Government schools.

46. In cases where facilities for special educational treatment do not exist, the Government shall not be obliged to accept into any Government school a pupil with a disability of body or mind, where the acceptance of such pupil would, in the view of the Director, adversely affect the education of other pupils in attendance at the school.

Director to ascertain what children require special educational treatment.

47. (1) The Director shall ascertain what children require special educational treatment, and, for the purpose of fulfilling that duty, any officer of the Department may by notice in writing served upon the parent of any child who has attained the age of five years require him to submit the child for examination by a Government medical officer for advice as to whether the child requires such special educational treatment.

(2) A parent upon whom such notice is served who fails without reasonable excuse to comply with the requirements thereof, is guilty of an offence and is liable on summary conviction to a fine of £10.

(3) If the parent of any child who has attained the age of five years requests the Director to cause the child to be so medically examined as aforesaid, the Director shall comply with the request unless in the opinion of the Director the request is unreasonable.

(4) Before any child is medically examined under subsection (1) or (3) the Director shall cause notice to be given to the parent of the time and place at which the examination will be held, and the parent shall be entitled to be present at the examination if he so desires.

Director to publicize provisions of this Part.

48. It shall be the duty of the Director from time to time to disseminate information as to the educational importance to any child suffering from disability of mind or body of the early ascertainment of his disability, and of the opportunity for medical examination available under this Part.

PART IX.
COMPULSORY EDUCATION.

Compulsory school age.

49. In this Part “compulsory school age” means any age between five years and fifteen years, and accordingly a person shall be deemed to be of compulsory school age if he has attained the age of five years and has not attained the age of fifteen years and a person shall, subject to the provisions of section 2(4), be deemed to be over compulsory school age as soon as he has attained the age of fifteen years:

Provided that if the Minister is satisfied—

- (a) that it has become practicable to raise to sixteen years the upper limit of the compulsory school age, he may by order direct that the foregoing provisions of this section shall have effect as if for references therein to the age of fifteen years, there were substituted references to the age of sixteen years;
- (b) that it has become practicable to lower to four years the lower limit of the compulsory school age, he may by order direct that the foregoing provisions of this section shall have effect as if for references therein to the age of five years, there were substituted references to the age of four years.

Duty of parents to secure the education of their children.

50. Subject to the provisions of section 73 it shall be the duty of the parent of every child of compulsory school age residing in Gibraltar, to cause him to receive efficient full-time education which, in the opinion of the Director, is suitable to his age, ability and aptitude, either by regular attendance at school or otherwise.

School attendance orders.

51. (1) If it appears to the Director that the parent of any child of compulsory school age is failing to perform the duty imposed on him by section 50, the Director may serve upon the parent a notice requiring him, within such time as may be specified in the notice, not being less than fourteen days from the service thereof, to satisfy the Director that the child

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is receiving efficient full-time education suitable to his age, ability and aptitude either by regular attendance at school or otherwise.

(2) If after such notice has been served upon a parent by the Director, the parent fails to satisfy the Director in accordance with the requirements of the notice that the child to whom the notice relates is receiving efficient full-time education suitable to his age, ability and aptitude, then, if in the opinion of the Director it is expedient that he should attend school, the Director shall serve upon the parent an order in the prescribed form (hereinafter referred to as a “school attendance order”) requiring him to cause the child to become a registered pupil at a school named in the order.

(3) If, at any time while a school attendance order is in force with respect to any child, the parent of the child makes application to the Director requesting that another school be substituted for that named in the order, or requesting that the order be revoked on the ground that arrangements have been made for the child to receive efficient full-time education suitable to his age, ability and aptitude, otherwise than at school, the Director shall amend or revoke the order in compliance with such request unless he is of opinion that the proposed change of school is unreasonable or inexpedient in the interests of the child, or that no satisfactory arrangements have been made for the education of the child otherwise than at school, as the case may be.

(4) A person upon whom a school attendance order is served, and who fails to comply with the requirements of the order, is guilty of an offence against this section unless he proves that he is causing the child to receive efficient full-time education suitable to his age, ability and aptitude otherwise than at school.

(5) If in any proceedings against any person for failure to comply with a school attendance order that person is acquitted, the court may direct that the school attendance order shall cease to be in force, but without prejudice to the duty of the Director to take further action under this section if at any time the Director is of opinion that, having regard to any change of circumstances, it is expedient so to do.

(6) Save as provided by subsection (5) a school attendance order made with respect to any child shall, subject to any amendment thereof which may be made by the Director, continue in force so long as the child is of compulsory school age unless revoked by the Director.

Duty of parents to secure regular attendance of registered pupils.

52. (1) If any child of compulsory school age who is a registered pupil at a school fails to attend regularly thereat, the parent of the child is guilty of an offence against this section.

(2) In any proceedings for an offence against this section in respect of a child who is not a boarder at the school at which he is a registered pupil, the child shall not be deemed to have failed to attend regularly at the school by reason of his absence therefrom with leave or—

- (a) at any time when he was prevented from attending by reason of sickness or any unavoidable cause; or
- (b) on any day exclusively set apart for religious observance by the religious body to which his parent belongs.

(3) In any proceedings for an offence against this section in respect of a child who is a boarder at the school at which he is a registered pupil, the child shall be deemed to have failed to attend regularly at the school if he is absent therefrom without leave during any part of the school term at a time when he was not prevented from being present by reason of sickness or any unavoidable cause.

(4) In this section the expression “leave” means, in relation to any independent or aided school, leave granted by any person authorized in that behalf by the managers, governors or proprietor of the school and, in relation to any Government school, leave granted by any person so authorized by the Director.

Penalties.

53. A person guilty of an offence against section 51 or 52 is liable on summary conviction, in the case of a first offence to a fine of £5, in the case of a second offence to a fine of £10, and in the case of a third or subsequent offence to imprisonment for one month and to a fine of £20.

PART X. HEALTH.

Medical inspection.

54. (1) It shall be the duty of the Director, in conjunction with the Public Health Director, to arrange for the free medical inspection at regular intervals of pupils in attendance at all schools.

(2) For the purpose of ensuring such medical inspection the Director or any officer authorized by him in that behalf may, by notice in writing,

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require the parent of any pupil in attendance at any school to submit the pupil for medical inspection in accordance with arrangements made or approved by the Director and the Director may require any pupil in attendance to submit to such inspection.

(3) The proprietor of every independent school shall make such arrangements as the Director may require for enabling pupils in attendance at the school to receive free medical inspection.

(4) A person who fails without reasonable excuse to comply with any requirement made under this section is guilty of an offence and is liable on summary conviction to a fine of £5.

Treatment.

55. (1) The Director may arrange, in so far as resources permit, for free dental and ophthalmic treatment for pupils in attendance at every Government school.

(2) If the parent of any pupil gives to the headteacher of a Government school notice that he objects to the pupil availing himself of such free dental or ophthalmic treatment provided in pursuance of this section the pupil shall not be encouraged or assisted to do so.

Power to ensure cleanliness.

56. (1) The Director may, with the concurrence of the Public Health Director, by directions in writing issued with respect to all schools, authorize a registered medical practitioner appointed by the Authority to cause examinations of the persons and clothing of pupils in attendance at such schools to be made whenever in the Director's opinion such examinations are necessary in the interests of cleanliness.

(2) If the person or clothing of any pupil is found upon any examination made under subsection (1) to be infested with vermin or in a foul condition, the Director or any officer authorized by him in that behalf may serve upon the parent of the pupil a notice requiring him to cause the person and clothing of the pupil to be cleansed within twenty four hours.

(3) A parent who fails without reasonable excuse to comply with a notice under subsection (2) is guilty of an offence and is liable on summary conviction to a fine of £5.

(4) Where any public officer suspects that the person or clothing of any pupil in attendance at a school is infested with vermin or in a foul condition, and action for the examination thereof cannot immediately be taken, he may,

in the interests of the pupil or of the other pupils in attendance at the school, with the approval of the Director, direct that the pupil be excluded from the school until such action is taken.

(5) No girl shall be examined under the powers conferred by this section save by a duly qualified medical practitioner or by a woman authorized for that purpose by the Public Health Director.

Power to close schools in interests of public health.

57. The Minister, if he is satisfied that it is in the interest of public health, may by order, close all schools specified in such order, as he may deem necessary.

Entry into school prohibited because of notifiable disease.

58. (1) Any person having the care of a pupil who is, or has been suffering from, or has been exposed to infection of, a notifiable disease and the headteacher of the school attended by such pupil shall not, after receiving notice from the Public Health Director or from a duly qualified medical practitioner that the pupil is not to be sent to school, permit the pupil to attend school, until he has obtained from the Public Health Director a certificate, (for which no charge shall be made) that in his opinion the pupil may attend school without undue risk of communicating the disease to others.

(2) A person who contravenes the provisions of this section is guilty of an offence and is liable on summary conviction to a fine of £5.

Directions as to notifiable diseases.

59. The headteacher of a school in which any pupil is suffering from a notifiable disease shall, if required by the Public Health Director, furnish to the Public Health Director within a reasonable time fixed by him a complete list of the names and addresses of the pupils not being boarders, in or attending the school, or any specified class or department of the school.

PART XI.

EMPLOYMENT AND WELFARE.

Application.

60. The provisions of this Part shall apply—

- (a) to persons under the age of eighteen years;

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- (b) to persons of or over the age of eighteen years who are attending full or part-time education.

Interpretation.

61. In this Part—

“employment” includes full and part-time employment as a servant or apprentice by way of manual labour, clerical work or otherwise whether or not such servant or apprentice receives any reward or other remuneration for his services.

Employment of children.

62. No child shall be employed without the written consent of the Director who shall in all cases consult the parent of such child and, where the child is a registered pupil, the headteacher of the school attended by such child before granting or withholding such consent.

Power of Director to prohibit or restrict employment of children.

63. (1) If it appears to the Director that any child who is a registered pupil at a Government, independent or special school, is being employed in such manner as to be prejudicial to his health, or otherwise to render him unfit to obtain the full benefit of the education provided for him, the Director may, by notice in writing served upon the employer, prohibit him from employing the child, or impose such restrictions upon his employment of the child as appears to him to be expedient in the interests of the child.

(2) The Director may, by notice in writing served upon the parent or employer of any child who is a registered pupil at a Government, independent or special school, require the parent or employer to provide the Director or any officer specified in such notice, and within such period as may be specified in the notice, with such information as appears to the Director to be necessary for the purpose of enabling him to ascertain whether the child is being employed in such a manner to render him unfit to obtain the full benefit of the education provided for him under this Act.

(3) A person who employs a child in contravention of any prohibition or restriction imposed under subsection (1) or who fails to comply with the requirement of a notice served under subsection (2), is guilty of an offence and is liable on summary conviction to a fine of £50, and in the case of a second or subsequent offence, to a fine of £100 and to imprisonment for one month.

Effect of school attendance orders on computation of working hours.

64. (1) Where a young person is employed in any employment with respect to which a limitation upon the number of working hours during which he may be employed in that employment (otherwise than by way of overtime) in any week is imposed by or under any enactment, any period of attendance at a school between the hours of 8 a.m. and 5 p.m., shall for the purposes of the limitation, be deemed to be time during which he has been so employed in that week.

(2) Where a young person employed in any employment is entitled by or under the provisions of any enactment or of any agreement to overtime rates of pay in respect of any time during which he is employed in that employment on any day or in any week in excess of any specified number of hours or before or after any specified hour, any period of attendance at school during a week or on a day shall for the purposes of those provisions, be deemed to be a period during which he was employed in that employment otherwise than in excess of the specified number of hours, or otherwise than before or after the specified hour, as the case may be.

Establishment of Youth Employment and Welfare Council.

65. (1) For the purpose of facilitating the establishment of a comprehensive youth employment and welfare service, the Director may, with the approval of the Minister, make arrangements for the performance of any of his functions under this Act in relation to persons to whom this Part applies through the Youth Employment and Welfare Council which shall consist of such persons as may be appointed by the Minister.

(2) The Director or a person authorized by him shall be the Executive Officer of the Youth Employment and Welfare Council.

Training and employment of young persons suffering from disability of mind or body.

66. If under Part VIII it is found that a young person is in need of special training in order to fit him into employment the Director shall so far as resources permit provide such training and make arrangements for his subsequent employment.

Duties of employers.

67. (1) No employer shall employ any young person without first consulting the Director or other authorized officer of the Department.

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(2) The employer of any young person shall within seven days of the engagement of such person in his employment given notice thereof in writing to the Director and such notice shall contain—

- (a) the age of the young person;
- (b) the full name and address of the young person and employer;
- (c) the date of commencement of employment
- (d) the nature of employment in which and place at which the young person is employed;
- (e) the hours and time of employment;
- (f) the days, not exceeding five and a half, on which the young person is to be employed each week; and
- (g) the rate of remuneration per hour.

(3) A person who contravenes the provisions of subsection (1) is guilty of an offence and is liable on summary conviction to a fine of £50.

Powers of Director and right of appeal.

68. (1) If it appears to the Director after taking all relevant facts into consideration including age, nature of work and hours of employment per day that a child or young person in employment for which no statutory minimum wage has been prescribed is not being remunerated by his employer at a rate per hour which is fair and reasonable by comparison with prevailing rates of remuneration generally observed by good employers, he shall be empowered to fix a minimum rate of remuneration per hour as he considers fair and reasonable for the work in question and age of the child or young person employed and shall inform the employer in writing thereof and the employer in question shall be bound to pay the rate so fixed, subject to a right of appeal within seven days to the Director of Labour and Social Security whose decision as to the rate of remuneration appropriate in each one case shall be final.

(2) An employer who employs a child or young person at an hourly remuneration less than that fixed by the Director in the exercise of his powers under this section, or by the Director of Labour and Social Security on appeal, is guilty of an offence and is liable on summary conviction to a fine of £50.

Powers of inspection.

69. (1) The Principal Youth and Careers Officer and any other officer so appointed in that behalf by the Minister shall be inspectors for the purpose of this Act.

(2) Inspectors appointed shall be furnished with a certificate of appointment signed by the Director which shall be produced when required.

(3) Inspectors so appointed shall, for the purpose of ascertaining whether the provisions of this Act are being or have been complied with, have and may exercise the powers conferred on an inspector by section 17 of the Employment Act¹, and such powers may be enforced in accordance with that section.

(4) Inspectors so appointed—

- (a) shall be prohibited from having any direct or indirect interest in any premises or places which may be subject to inspection by them;
- (b) shall not reveal at any time even after ceasing to be inspectors any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties;
- (c) shall treat as confidential the source of any complaint bringing to their notice a defect or a breach of the provisions of this Act or of any regulations or orders thereunder or of any recognised conditions of employment; and
- (d) shall not in any case give intimation to the employer or his representative that a visit of inspection was made as a consequence of the receipt of such a complaint.

Legal proceedings.

70. The Principal Youth and Careers Officer or any inspector if so authorized in writing under the hand of the Attorney-General, may prosecute, conduct or defend before the magistrates' court any information, complaint or other proceeding arising under this Part or in the discharge of his duty as an inspector.

Application of Social Security (Employment Injuries Insurance) Act.

¹ 1932-16

This version is out of date

71. Notwithstanding anything contained in section 4 of the Social Security (Employment Injuries Insurance) Act² the provisions of that Act shall apply mutatis mutandis to persons under the age of fifteen years in insurable employment.

Saving.

72. The provisions of this Part shall be in addition to and not in substitution for any enactment relating to the employment of children and young persons or for giving effect to any international convention regulating employment.

PART XII. MISCELLANEOUS.

Fees.

73. (1) Subject to subsection (2A) no fees shall be charged either for admission to Government schools or for education provided in such schools in respect of any child of compulsory school age residing in Gibraltar.

(2) For the purpose of subsection (1) a child shall be deemed to be residing in Gibraltar only if he is in Gibraltar under the provisions of the Immigration, Asylum and Refugee Act or the Temporary Protection Act 2005, and—

- (i) does not require a permit or certificate to reside in Gibraltar;
- (ii) has a certificate of permanent residence;
- (iii) has a valid permit of residence issued under section 18(1)(f) of the Immigration, Asylum and Refugee Act;
- (iv) has, or is entitled to, a permit of residence under the Temporary Protection Act 2005;
- (v) is an applicant or dependant family member of an applicant under the Asylum Regulations 2008; or
- (vi) has refugee status or subsidiary protection status under the Asylum Regulations 2008.

(2A) Except as otherwise provided in regulations, subsection (1) shall not apply in respect of any child where—

² 1952-10

- (a) any natural or adoptive parent of the child, being in either case a person who is entitled to the legal custody of the child, or would be if that parent asserted his rights, is living; and
- (b) no such parent as is described in paragraph (a) is ordinarily resident in Gibraltar (whether or not he is a parent resident in Gibraltar within the meaning of subsection (2)).

(2B) For the purposes of subsection (2A)–

- (a) where any natural or adoptive parent of a child is living, but does not have the legal custody of the child, it shall be presumed unless the contrary is proved by that parent that the parent is entitled to the legal custody of the child, or would be if the parent asserted his rights; and
- (b) where a natural or adoptive parent of a child, being a person to whom any of paragraphs (i) to (iv) of subsection (2) applies, has in any year resided outside Gibraltar for any period or periods exceeding in the aggregate 3 months, it shall be presumed until the contrary is proved by that parent that he is not ordinarily resident in Gibraltar during that year.

(2C) Regulations may provide for exceptions from subsection (2A).

(2D) Subsection (2A) does not apply where the child is an unaccompanied minor as defined in the Asylum Regulations 2008.

(3) There may be charged in respect of children above compulsory school age who attend any scheme of further education or any part time class or course provided under this Act such fees as may be prescribed under section 82.

General power of inspection of schools.

74. (1) It shall be lawful for the Director or any person thereto authorized by him to enter the premises of any school at any reasonable time for the purpose of making any inspection or inquiry for any of the purposes of this Act.

(2) Every proprietor of and teacher employed in a school shall, when so required by the Director or any person authorized by him, furnish the Director or such person with all such information as may be necessary for the purpose of any inspection or inquiry which the Director or such person is by this Act authorized or required to make.

Inspection of Government Schools.

75. (1) It shall be the duty of the Director to cause inspections to be made of all Government schools and such inspections shall be carried out in such manner and at such intervals as the Director may decide.

(2) The Director may cause inspection to be made of schools registered under the provisions of this Act, and such inspection shall (unless the Minister otherwise directs) be carried out not more frequently than once every six months and due notice thereof shall be given to such schools, and shall not (save with the agreement of the proprietor) be less than three days. A copy of any report thereon shall be supplied on request to the proprietor of any such school.

Powers of Minister as to educational research.

76. The Minister shall make provision for conducting or assisting the conduct of research as appears to him to be desirable for the purpose of improving the educational facilities in Gibraltar.

Power of the Director as to educational conferences.

77. Subject to any directions of the Minister the Director may organize or participate in the organization of conferences in Gibraltar or elsewhere for the discussion of questions relating to education, and for such purpose may expend such sums as may be reasonable in paying or contributing towards any expenditure incurred in connection with conferences for the discussion of such questions, including the expenses of any person authorized by the Department to attend any such conference.

Power to accept gifts for educational purposes.

78. The Director shall on behalf of the Government have the power to accept gifts for educational purposes and to accept, hold and administer any property upon trust for purposes connected with education and recreation.

Reports and returns.

79. The Director shall render the Minister such reports and returns and give to him as much information as he may require for the purpose of the exercise of his functions under this Act.

Information relating to births and deaths.

80. The Registrar of Births and Deaths shall supply to the Director such particulars of the entries contained in any register kept by him under the

Births and Deaths Registration Act³, as the Director may require for the purposes of this Act.

Provision as to transport.

81. The Minister may make arrangements for the provision of transport as he considers practicable and necessary for the purpose of facilitating the attendance of pupils at schools and other establishments maintained by the Government. Transport provided in pursuance of such arrangements may be provided free of charge or be subject to such charges as may be prescribed.

Regulations.

82. (1) The Minister may make regulations for carrying the provisions of this Act into effect and without prejudice to the generality of this provision by such regulations may provide for—

- (i) the structure, hygienic character and sanitation of schools and school premises;
- (ii) the precautions to be taken against fire or other peril likely to endanger the lives or health of the pupils, and such regulations may authorize officers of the City Fire Brigade to enter and inspect school premises and buildings in which schools are situate and premises in the neighbourhood thereof;
- (iii) schools operated in premises which are, by reason of their design and construction, unsuitable for the purposes of a school;
- (iv) the health inspection of schools and school premises;
- (v) the medical examination of teachers and pupils, and standards of medical fitness for teachers;
- (vi) the temporary exclusion from any school of any teacher or pupil and any other measures necessary or desirable to preserve the health and well-being of teachers and pupils;
- (vii) the size of classes;
- (viii) the control of instruction given in schools and the preparation and contents of the syllabus to be used in any school or schools;

³ 1887-01

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- (ix) the control of the activities of teachers, pupils and other persons in schools;
- (x) the adequacy, standards, suitability and use of school equipment, school laboratories and workshops;
- (xi) the method and hours of instruction;
- (xii) holidays;
- (xiii) the control of the use to which school premises may be put and of the persons who may enter thereon;
- (xiv) the functions and powers of the Education Council, school committees and committees of colleges of further education;
- (xv) subject to the provisions of Chapter VII of the Constitution and the Public Service Commission Act—
 - (a) the constitution, functions, powers and organization of the work of departmental selection boards;
 - (b) the manner in which the functions of such boards are to be performed and the keeping of records and minutes of the proceedings thereof;
 - (c) the duties and responsibilities of such boards, including the delegation to any member of a board of the board's powers or duties;
 - (d) consultation by such boards with persons other than its members;
 - (e) the procedure to be followed by such boards in conducting their business, including the fixing of a quorum;
 - (f) any other matters necessary or expedient for the better performance of the functions of such boards;
- (xvi) the setting-up of a system of vocational guidance in Government secondary schools and the establishment, maintenance, inspection and disclosure of such educational attainments and aptitudes of the persons to whom they relate as

may be necessary for the purpose of enabling appropriate advice and assistance to be given to such persons;

- (xvii) the inspection and destruction, after such periods as may be prescribed, of records, registers and other documents maintained under this Act;
- (xviii) the powers of persons appointed as inspectors under this Act;
- (xix) the definition of the categories of pupils requiring special educational treatment, the methods appropriate for the education of pupils of each category, and the ages up to which such special educational treatment shall be provided;
- (xx) the particulars to be furnished for the register and the procedure on the registration thereof, the notification to the Registrar of any changes in such particulars and the circumstances in which any such school shall be deleted from the register;
- (xxi) the maximum hours and days of work of children and young persons;
- (xxii) the forms for any applications, certificates, registers, records, returns, particulars, accounts, notices and orders authorized or required by this Act to be kept, furnished or served;
- (xxiii) the procedure by which a child may become a registered pupil and may be withdrawn from school at which he is a registered pupil;
- (xxiv) the procedure for and conditions of admission of a child to an aided school;
- (xxv) the arrangements to be made by the proprietor's and head teachers of aided schools in connection with the medical inspection and treatment of pupils;
- (xxvi) the inspection of any register authorized or required by this Act to be kept and for enabling or requiring extracts therefrom to be taken for the purposes of this Act;
- (xxvii) the requiring of headteachers of schools to sign and furnish to the Director any certificate required by him for the purposes of this Act;

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- (xxviii) the maintenance of discipline in Government schools, including the punishment of pupils therein and the suspension and expulsion of pupils therefrom;
- (xxix) the appointment of governing bodies in relation to aided schools and for the functions and duties thereof;
- (xxx) the keeping and production to the Director or other prescribed authority of school registers, records, time-tables, books of account and other documents;
- (xxxi) the amount and method of payment of any fees or other charges;
- (xxxii) the procedure, term of office and conditions of retirement of members of the Education Council;
- (xxxiii) the maintenance, government and conduct of institutions of further education, and the education to be given therein;
- (xxxiv) general matters of school administration;
- (xxxv) the control of entrances to and exits from school premises;
- (xxxvi) the qualifications of registered teachers, unregistered teachers and those that shall be held by teachers of various classes and subjects;
- (xxxvii) the appointment, constitution and functions of any advisory committee or committees appointed to advise on the remuneration of teachers;
- (xxxviii) discipline in schools and the methods of enforcement thereof and the conduct and dress of teachers and pupils;
- (xxxix) the amendment of the schedules;
- (xl) generally in relation to any matter of education, whether similar or not to those mentioned in this subsection, as to which it may be convenient to make regulations;
- (xli) the award of scholarships and matters related thereto;
- (xlii) prescribing anything which is by this Act required or authorized to be prescribed;

- (xliv) any contravention of a regulation made under this section being a summary offence and for a maximum penalty not exceeding a fine of £100 on conviction for any such offence.

(1A) Without prejudice to subsection (1), the Minister may make regulations providing for, regulating and financing training of persons employed or desirous of being employed and such regulations may—

- (a) make different provision in respect of training of different kinds or for different categories of persons;
- (b) impose a levy on employers or on any description of employers as may be specified in such regulation for the purpose of financing such training and such regulation may make provision for determination of appeals made against the imposition of such levy;
- (c) appoint persons to be responsible for providing and regulating training in accordance with such regulations, including the collection of and accounting for any levy imposed in accordance with subparagraph (b);
- (d) prescribe the terms under which a person undergoing training of a particular kind shall be employed by an employer and the application to such person of legislation relating to social security contributions;
- (e) establish and administer tests of achievement, competence or skill in relation to training undertaken under the provisions of such regulations;
- (f) appoint a person to be the competent authority in Gibraltar in respect of the establishment or recognition of standards of training, competence or qualification in accordance with the provisions of legislation of the European Community dealing with such matters:

Provided that in relation to any particular skill, trade or profession, some other body is not charged with such competence under any other Act.

(2) Any regulation made under this section may provide that acts shall only be performed if the Director consents thereto, and may prohibit the performance of acts without the consent of the Director, and may authorize the Director to require acts to be performed or to prohibit their performance, and may require acts to be done to the satisfaction or with the approval of the Director.

(3) The Director may in respect of any particular school by notice in writing to the school committee or headteacher thereof waive or modify the requirements of any regulation, for such period and upon such conditions as he may think fit, if he is satisfied that compliance therewith is undesirable or impracticable in such school.

(4) All regulations made under this section shall be laid before the Parliament at the meeting thereof commencing next after such regulations have been made.

Offences and penalties.

83. Any person who—

- (a) obstructs or resists the Director or any person duly authorized by or under this Act in the carrying out of any inspection or inquiry which the Director or such person is authorized or required by this Act to make;
- (b) in furnishing any information or particulars which he is required by this Act to furnish to the Director, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular;
- (c) neglects or refuses to furnish any information or particulars which he is required by this Act to furnish;
- (d) establishes an independent school, or conducts any such school without having first obtained the approval required by section 31(1);
- (e) conducts an independent school which has been ordered under any of the provisions of section 33 to be closed;
- (f) uses any premises for purposes for which they are disqualified by virtue of any order made under Part V;
- (g) accepts or endeavours to obtain employment as a teacher in any school while he is disqualified from being so employed by virtue of any order made under Part V;
- (h) knowingly employs any person as a teacher in any school while such person is disqualified from being so employed by virtue of any order made under Part V; or

- (j) being the proprietor of an independent school or aided school fails to keep the register of pupils which he is required by section 13 to keep or fails to enter in the register anything which he is so required to enter therein,

is guilty of an offence and is liable on summary conviction to a fine of £100 or in the case of a second or subsequent conviction to imprisonment for three months and to a fine of £250.

Provisions as to evidence.

84. (1) Where in any proceedings under this Act the person by whom the proceedings are brought alleges that any person whose age is material to the proceedings is under, of, or over, any age, and satisfies the court that having used all reasonable diligence to obtain evidence as to the age of that person he has been unable so to do, then, unless the contrary is proved, the court may presume that person to be under, of, or over, the age alleged.

- (2) In any legal proceedings—
 - (a) a certificate giving particulars of the attendance of a child at a school and signed by the headteacher of the school; or
 - (b) an extract from any register kept by the Director under the provisions of this Act certified as correct and signed by the Director,

shall be received in evidence and shall, unless the contrary is proved, be deemed to be the document which it purports to be, and to have been signed by the person by whom it purports to have been signed, without proof of his identity, signature, or official capacity, and shall be evidence of the matters therein stated.

Service of notices.

85. Any notice authorized or required by this Act to be served upon any person may be served by delivering it to that person or by leaving it at his usual or last known place of residence or by sending it by pre-paid post to his usual or last place of residence.

Saving as to persons of unsound mind and persons detained by order of a court.

86. (1) No power or duty conferred or imposed by this Act on the Director or on parents shall be construed as relating to any person who is—

This version is out of date

- (a) being detained in pursuance of an order made by any court;
- (b) the subject of a reception order or inquiry under the Mental Health Act⁴;
- (c) being detained as a criminal person of unsound mind or in pursuance of a warrant issued under section 250 of the Criminal Procedure Act; or
- (d) a child as to whom the Director is satisfied after due inquiry that the child is suffering from a disability of mind of such a nature or to such an extent as to make him incapable of receiving education at school.

(2) For the purposes of this section, a child shall be deemed to be suffering from a disability of mind of such a nature and extent as to make him incapable of receiving education at school not only if the nature and extent of his disability are such as to make him incapable of receiving education, but also if they are such as to make it inexpedient that he should be educated in association with other children either in his own interests or in theirs.

PART XIII. TRANSITIONAL AND REPEAL.

Transitional provisions.

87. *Omitted.*

Saving.

88. *Omitted.*

Repeal.

89. *Omitted.*

⁴ 1968-24

SCHEDULE

PART I.—SCHOOL COMMITTEE.

Section 22(2)

Constitution of School Committee.

1. A school committee (hereinafter called “the Committee”) shall consist of not less than seven persons selected for their interest in and knowledge of education, and shall be appointed by the Minister as follows;—

- (a) one member shall be appointed after consultation with—
 - (i) in the case of a school in which the pupils are predominantly of the Roman Catholic faith, the Bishop;
 - (ii) in the case of a school in which the pupils are predominantly of another faith, the local head of that faith;
- (b) not less than four members, not less than half of whom shall represent the parents or guardians of pupils attending the school;
- (c) the headteacher or headteachers of the school;
- (d) one member (not being a member of the staff of the school) appointed after consultation with any association representative of the teachers of Gibraltar.

Secretary.

2. The Director or his nominee shall be secretary to the Committee.

Term of office.

3. The members of the Committee (other than ex officio members) shall hold office for three years, and shall be eligible for re-appointment.

Termination of appointment.

4. The Minister may in his discretion terminate the appointment of any member of the Committee other than an ex officio member.

Vacancy.

5. The powers of the Committee may be exercised notwithstanding any vacancy in their number.

Procedure.

6. The committee may, subject to such regulations as may be prescribed, make standing orders regulating their own procedure.

PART II. COMMITTEE FOR COLLEGE OF FURTHER EDUCATION.

Section 29(2)

Constitution of committee of College of Further Education.

1. (1) The committee of the College of Further Education (hereinafter called “the Committee”) shall consist of not less than ten persons selected for their interest in and knowledge of education and shall be constituted as follows:—

- (a) the Director of Education or his nominee, who shall be the Chairman;
- (b) persons appointed by the Minister from within persons, groups or organisations having an interest in the advancement and promotion of further education.

Members of the Committee not to be financially interested in the college.

(2) No member of the Committee shall hold any financial interest in the college or receive remuneration for his services, or be financially interested in the supply of work or goods to or for the purpose of the college.

Persons ineligible to be members of the Committee.

(3) No parent, brother, sister, husband or wife of a member of the staff of the college shall be eligible to be a member.

Term of office.

2. The members of the Committee (other than the ex officio member) shall hold office for two years, and shall be eligible for re-appointment.

Termination of appointment.

3. The Minister may in his discretion terminate the appointment of any member of the Committee other than the ex officio member.

Vacancy.

4. The powers of the Committee may be exercised notwithstanding any vacancy in their number.

Procedure.

5. The committee may, subject to such regulations as may be prescribed, make standing orders regulating their own procedure.

Secretary.

6. The Principal of the College or his nominee shall be secretary to the Committee.

PART III.
MANAGEMENT OF SCHOOLS AND
COLLEGES.

Sections 22(2) and 29(2)

A: INSTRUMENT OF MANAGEMENT.

Interpretation.

1. In this Schedule—

“Committee” means the Committee established under section 22 or 29 of the Act;

“members” includes the chairman of the Committee save where reference is made specifically to the chairman.

Determination of membership of the Committee.

2. Any member of the Committee who is absent from all meetings of the Committee during a period of one year, or who in the opinion of the Minister is incapacitated from acting, or who communicates in writing to the secretary to the Committee a wish to resign, shall thereupon cease to be a member.

Vacancies.

3. Every vacancy shall be notified to the Minister by the Director as soon as possible.

Summoning of meetings.

4. Meetings of the Committee, which shall be held not less than once in every school term, shall normally be summoned by the secretary to the Committee, who shall give the members not less than fourteen clear days notice of such meetings. The secretary to the Committee shall also send to each member an agenda paper, so that it may in the ordinary course of letter post be delivered at the address of each member not less than two clear days before the time of meetings.

Quorum.

5. No business shall be transacted at any meeting of the Committee unless at least three members are present.

Adjournment of meetings.

6. If a sufficient number of members to form a quorum is not present, the meeting shall stand adjourned, and the chairman of the Committee shall, if he thinks fit, cause a special meeting to be summoned as soon as conveniently may be done. Any meeting may be adjourned by resolution.

Special meetings.

7. A special meeting may be summoned by the secretary to the Committee at the instance of the chairman or at the request of any two members at any time, giving not less than three clear days notice of such meeting. The agenda paper shall set out the business to be considered at the special meeting and no business other than that so specified shall be taken.

Validity of meetings and proceedings.

8. The proceedings of the Committee shall not be invalidated by any vacancy in their number or by any defect in the election, appointment or qualification of any member. Want of service of notice of a meeting on any member shall not affect the validity of a meeting.

Chairman.

9. (1) The head teacher shall be the chairman of the Committee unless he shall signify that he does not wish to be chairman in which case the Committee shall at their first ordinary meeting in each year elect from their members a chairman for the ensuing year. A chairman shall be eligible for re-election.

(2) In the event of the death, resignation or cessation of membership for any reason of an elected chairman a new chairman shall be elected at the next meeting thereafter.

(3) If the chairman is absent from any meeting, whether of a school or a college, the members present shall before any other business is transacted, choose one of their members to be chairman for such meeting.

Proceedings of the Committee.

10. A question coming before the Committee at any meeting shall be decided by a majority of the members present, and in the case of any equality of votes, the chairman of the meeting shall have a second or casting vote.

Minutes.

11. At every meeting of the Committee the minutes of the last meeting shall be read as first business, and, if carried, shall be confirmed and signed by the chairman.

Correspondence.

12. The official correspondence of the Committee shall be conducted by the secretary to the Committee.

Proceedings and documents of committee.

13. The proceedings and documents of the Committee shall be such as may be prescribed by the Minister from time to time.

Communications.

14. Whenever this Instrument requires the Committee to communicate with or report to the department their communication or report shall be addressed to the Director.

B: ARTICLES OF MANAGEMENT.

Conduct of school.

1. The school shall be conducted in accordance with the provisions of the Act, the regulations and this schedule.

School premises.

2. The committee shall from time to time inspect and keep the department informed as to the condition and state of repair of the school premises and equipment in the school under its jurisdiction and shall be responsible for calling the attention of the Director to any work required to keep the premises and equipment in a satisfactory condition.

Advice on use of premises.

3. The committee shall advise the Director on the use and care of school premises both as a school and as an evening institute and/or community centre under section 21 of the Act.

Advice on requirements for special equipment.

4. The committee shall advise the headteacher and the Director as to the items of special equipment which are required for the school(s).

Proposals of committee.

5. The committee may from time to time submit to the Director any proposals which in its judgment will be advantageous to the school or will increase the efficiency of the school. The Director shall fully consider such proposals and shall decide upon them.

Returns.

6. The committee shall furnish to the Minister such returns and reports as he may require.

Copies of articles.

7. A copy of these articles shall be given to every member, the headteacher and every teacher on appointment.