

THE EDUCATION LAW, 1966



No. 40



1966

I assent,

14th September, 1966

**H.S. Norman-Walker,
Her Majesty's Commissioner.**

ARRANGEMENT OF SECTIONS

Section

PART I Preliminary

1. Short Title and Commencement
2. Interpretation

PART II Administration

3. Duties of Minister
4. Duties of Director
5. Employment of Teachers by Director
6. Constitution of Local Education Authorities
7. Duties of Local Education Authorities
8. Establishment of Boards of Governors for Government Schools
9. Contents of Order
10. Establishment of Boards of Governors for Aided Schools
11. Establishment of Committees
12. Contents of Order
13. Functions of School Committees

PART III Registration and Control of Schools

14. Register of Schools
15. Registration Compulsory
16. Misleading Advertisements, etc.
17. Application for Registration
18. Registration by Director
19. Change in Establishment to be Registered
20. Regulations regarding School Premises
21. Duties of Manager
22. Curriculum
23. Religious Instruction
24. Proscription of Publications
25. Employment of Teachers
26. Fees
27. Inspection of Schools
28. Power to Close Schools

PART IV Supplementary

29. Appeals to Minister
30. Regulations
31. Repeal of Cap. 70 and Cap. 80.

**A LAW TO PROVIDE FOR THE PROPER DEVELOPMENT
OF EDUCATION AND FOR MATTERS INCIDENTAL THERE-
TO OR CONNECTED THEREWITH**

(As provided in Section 1.)

ENACTED by the Legislature of Bechuanaland.

PART I

PRELIMINARY

Short Title and Commencement.

1. (1) This Law may be cited as the Education Law, 1966, and, except otherwise provided in sub-sections (2) and (3), shall come into operation on a day to be appointed by Her Majesty's Commissioner by notice in the *Gazette*. 24/2/67 57 14/67

(2) Section 15 (2) shall come into operation on such day, not being earlier than three months after the first appointed day, as the Minister may appoint by notice in the *Gazette*.

(3) Section 31 (2) shall come into operation on such day, not being earlier than the first appointed day, as the Minister may appoint by notice in the *Gazette*.

Interpretation.

2. In this Law, unless the context otherwise requires :

“aided school” means a private school maintained wholly or partially by way of a recurrent grant out of public funds or the funds of any local council ;

“area” means an area in respect of which a district council has been established under the Local Government (District Councils) Law, 1965 (No. 35 of 1965) or a place declared to be a township under the Townships Proclamation (Cap. 120) ;

“Department” means the Department of Education ;

“Director” means the Director of Education ;

“first appointed day” means the day to be appointed by Her Majesty's Commissioner under section 1 (1) ;

- “Government school” means a school maintained out of public funds and managed by the Department ;
- “Local Education Authority” has the meaning assigned thereto in section 6 ;
- “local council” means, in relation to any area in respect of which a district council has been established under the Local Government (District Councils) Law, 1965, that district council ; and in relation to any area in respect of which a town council has been established under the Town Council Regulations, 1966, (L.N. No. 37 of 1966), that town council ;
- “Local Government school” means a school maintained entirely or partially out of local Government funds and managed by a Local Education Authority ;
- “manager” in relation to a school means the person or body of persons responsible for the management of the school and, for the purposes of the provisions of this Law relating to applications for the registration of schools to be established, includes any person or body of persons proposing to be so responsible ;
- “Minister” means the Minister for the time being responsible for education ;
- “owner” in relation to a school means the owner of the undertaking comprising the school, whether or not he owns the land on which any premises of the school are situate ;
- “parent” in relation to any pupil or child includes a guardian, whether by Tswana law and custom or otherwise and every person who has the actual custody of such pupil or child ;
- “post-primary school” means a school whose curriculum follows upon primary education ;
- “prescribed” means prescribed by regulation made under section 30 ;
- “primary education” means the first seven years of formal education ;
- “primary school” means a school at which primary education is provided ;
- “private school” means a school which is not a Government school or a Local Government school ;
- “pupil” includes a person of any age for whom education is provided or is required to be provided under this Law, and

any person enrolled on any register of enrolment of persons in attendance at the school, maintained in the school ;

“second appointed day” means the day to be appointed by the Minister under section 1 (2) ;

“school” means an institution in which not less than ten pupils receive regular instruction, whether by way of personal tuition or by correspondence, and any assembly of not less than ten pupils for the purpose of receiving such regular instruction, and any institution or place from which a regular instruction emanates or is imparted by means of correspondence, and includes any buildings used as part of the institution for boarding, domestic and recreational purposes : but does not include —

- (a) any institution or assembly in which the instruction is wholly or mainly of a religious character ; or
- (b) any institution owned and maintained by a religious society for the purpose of training persons —
 - (i) for the ordained ministry ; or
 - (ii) for admission to a religious order under the direction of or associated with such religious society :

Provided that any class, division or section of any such institution or assembly in which instruction is, in the opinion of the Director, wholly or mainly devoted to secular subjects shall be deemed to be a school ;

- (c) any institution or assembly which is declared by the Minister, by notice in the *Gazette*, not to be a school for the purposes of this Law by reason of its vocational or specialised character ;

“third appointed day” means the day to be appointed by the Minister under section 1 (3).

PART II

ADMINISTRATION

Duties of Minister

3. (1) It shall be the duty of the Minister to promote primary and post-primary education, educational research, and the progressive development of schools, consistently with the powers of direction and control vested in him by this Law.

(2) In exercising his functions under this Law, the Minister shall give due consideration to any advice which may be given to him by any Local Education Authority or Board of Governors or by any body established by the Minister for the purpose of giving such advice.

Duties of Director.

4. The Director shall, subject to the control of the Minister, perform all work necessary or incidental to the duties and powers of the Minister under this Law, and shall carry out such other functions as are conferred on him by or under this Law.

Employment of Teachers by Director.

5. (1) The Director may with moneys appropriated by law for such purpose employ persons to teach at Government schools on such terms and conditions as, subject to any provision made under the Teaching Service Law, 1964 (No. 35 of 1964) or as may be prescribed under this Law, he may deem fit.

(2) For the avoidance of doubt it is declared that nothing in this section shall be deemed to constitute the office of any teacher employed by virtue of this section as an office in the public service.

Constitution of Local Education Authorities.

6. Every local council shall for the purposes of this Law be the Local Education Authority for the area in respect of which it is established.

Duties of Local Education Authorities.

7. Every Local Education Authority shall exercise its powers so as to promote primary education within its area and to assist, in such manner as may from time to time be approved by the Minister, in the promotion of education in other respects, and shall carry out such other functions as are conferred on it by or under this Law.

Establishment of Boards of Governors for Government Schools

8. If, in the opinion of the Minister, the establishment of a Board of Governors would be in the interests of any Government school or group of schools, he may, by order published in the Gazette, establish a Board of Governors for that school or group of schools.

Contents of Order

9. (1) An order establishing a Board of Governors under section 8 shall provide for –

- (a) the name of the Board;
- (b) the exercise by the Board of the duty of management of the school or group of schools specified in the order, subject to such limitations or restrictions as may be specified;
- (c) the membership of the Board (which may include representatives of the Department, the local Education Authority, the parents of the pupils, the communities served by the school or group of schools, or other bodies or organisations);
- (d) the method by which continuity of the membership of the Board will be provided;
- (e) the revocation of the appointment of, the retirement and resignation of, members of the Board, and the appointment of new members thereof, and of temporary members thereof in case of absence or inability to act of any member thereof;
- (f) the respective responsibilities, duties and powers of the Board and of the other persons (if any) in whom any land or other property is vested in trust for or for the benefit of any school or group of schools affected by the order, and in respect of the use of the buildings and grounds of such school at times when they are not required to be used for purposes of education;
- (g) such other matters as the Minister may consider necessary in respect of the constitution, functions and procedure of the Board

(2) A Board of Governors established under section 8 shall, unless the order by which it is established otherwise provides, be a body corporate.

Establishment of Boards of Governors for Aided Schools

10. (1) If, in the opinion of the Minister, the establishment of a Board of Governors would be in the interests of any aided school or group of aided schools, he may, with the consent of the owner or owners thereof, establish a Board of Governors for that school or group of schools.

(2) The provisions of sections 8 and 9 shall, subject to such consent being given, have effect in relation to the establishment of a Board of Governors for an aided school or group of aided schools as they have for the establishment of such a Board for a Government school or group of Government schools.

Establishment of Committees.

11. (1) If, in the opinion of the Minister, it is desirable that a school committee be set up in respect of any primary school or group of primary schools he may cause proposals for that purpose to be placed before the manager of that school or group of schools, and the Local Education Authority for the area in which such school or group of schools is situated.

(2) If, in the opinion of the manager of any primary school or group of primary schools, it is desirable that a school committee be set up in respect of that school or group of schools, he may submit proposals for that purpose to the Minister, and to the Local Education Authority for the area in which the school is situated.

(3) Where proposals have been submitted by or to the Minister in pursuance of subsection (1) or (2) the Minister may, by order published in the *Gazette*, establish a school committee for the school or group of schools to which the proposals relate. Any such order may adopt the proposals so made with or without modifications.

Contents of Order.

12. An order establishing a school committee under section 11 shall provide for —

- (a) the name of the committee;
- (b) the membership of the committee; (which may include representatives of the manager; the Department, the Local Education Authority, the parents of pupils, the communities served by the school or group of schools or other bodies or organisations);
- (c) the method by which continuity of membership of the committee will be provided;
- (d) the revocation of the appointment of, the retirement and resignation of members of the committee, and the appointment of new members thereof, and of temporary members thereof in case of absence or inability to act of any member thereof; and

- (e) such other matters as the Minister may consider necessary in respect of the constitution, functions or procedure of the committee.

Functions of School Committees

13. (1) The functions of a school committee shall be to advise the manager on such aspects of management as are set out in sub-section (2) and to advise the Minister, and, where appropriate, the Local Education Authority, on the subjects mentioned in the said sub-section, but the appointment of a school committee in respect of a school shall not affect the responsibility of the manager for its management, or confer on the committee any administrative powers.

(2) Subject to the provisions of sub-section (1), a school committee may --

- (a) advise the manager on the times at which the school session shall begin and end on any day;
- (b) advise the manager on the appointment, supervision and dismissal of any non-teaching staff;
- (c) advise the manager on the appointment to and resignation or dismissal from the school staff of teachers;
- (d) satisfy themselves as to the maintenance of the school fabric and the provision of furniture and equipment;
- (e) satisfy themselves as to the implementation of reports by inspecting officers as far as such reports relate to matters mentioned in this sub-section;
- (f) organise such activities as it may consider desirable, with the object of collecting funds to be used for the purposes of the school.

PART III

REGISTRATION AND CONTROL OF SCHOOLS

Register of Schools

14. (1) The Director shall cause to be established and maintained a register of all schools, in which shall be recorded the particulars required or permitted by or under the provisions of this Law.

(2) For the purpose of such register a system of classification shall be adopted which shall distinguish primary schools from other schools, and which shall further distinguish, with

appropriate nomenclature –

- (a) different types of schools according to the nature of education to be provided therein; and
- (b) different classes, standards or forms within schools according to the stage, nature or method of education to be provided therein.

(3) The register shall record the number and category of classes, standards and forms and the type of education which each school may provide, and the highest form or type of education which is to be provided therein.

(4) The register shall record in relation to every school –

- (a) the name of the owner thereof; and
- (b) the name of the manager thereof, whether or not he is the owner.

(5) The system of classification and nomenclature may be amended from time to time by the Director.

(6) The Director shall cause a copy of such parts of the register maintained in pursuance of this section as relate to private schools to be published in the *Gazette* every calendar year.

Registration Compulsory

15. (1) With effect from the second appointed day no person shall own or manage or give regular instruction at a school unless that school is registered under section 14.

(2) Any person who contravenes any of the provisions of sub-section (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand.

Misleading Advertisements, etc.

16. Any owner or manager of a school who with intent to mislead refers to such school in, or in the course of, any correspondence or any advertisement, in such a manner as to suggest that the school is of a type or classification other than that in which it is for the time being registered under section 14, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand.

Application for Registration

17. (1) A Local Education Authority desirous of registering a school shall make application to the Director in the prescribed form.

(2) Any other person desirous of registering a school shall make application in the prescribed form to the Local Education Authority for the area in which it is proposed the school shall be situated. The Local Education Authority shall forward the application to the Director, with a report expressing its views in regard to the application.

(3) On receipt of any application in pursuance of sub-section (1) or (2), the Director shall cause notice of the application to be published in the *Gazette*, and shall in such notice call upon any person or body of persons who may wish to object to the application to lodge in writing with him and with the applicant, a statement as to the grounds of the objection, within six weeks of the publication of the notice.

Registration by Director

18. (1) After considering any objection made in pursuance of section 17 (3) the Director shall register the school in respect of which application is made if and shall not register the school unless he is satisfied that -

- (a) the teaching and accommodation are or will be adequate to the class of school it purports to be;
- (b) the physical health and moral welfare of the pupils will be adequately provided for ; and
- (c) the school will not be managed in a manner prejudicial to law and order.

(2) Notwithstanding the provisions of sub-section (1) the Director shall not register any school unless he is satisfied that the manager or proposed manager of the school is a fit and proper person to manage a school of the class in respect of which the application is made.

(3) Where the manager or proposed manager is a group of persons or a body corporate regard shall be had to each member of that group or each person controlling the affairs of that body corporate, as the case may be.

(4) Notwithstanding the provisions of sub-section (1) the Director shall not register a school (other than a school which was in existence at the date of commencement of this Law or a school established or to be established at its own expense by any religious community) if the Minister certifies in writing that the establishment of that school is not consistent with his policy for the promotion of education.

(5) If the Director is satisfied that a school which is

registered under section 14 has ceased to exist as a school for six months or more he shall remove the name of such school from the register.

Change in Establishment to be Registered

19. (1) No change shall be made in the establishment of any school registered under section 14 unless particulars of the change have been recorded in the register.

(2) The provisions of sections 17 and 18 shall have effect in relation to the registration of a change in the establishment of a school as they have in relation to the registration of a school.

(3) If any change is made in the establishment of a school (otherwise than by way of a change in the ownership of of the school) contrary to the provisions of sub-section (1) the manager of that school shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand.

(4) If any change is made in the ownership of a school contrary to the provisions of sub-section (1) the owner of that school and any person who immediately prior to such change was the owner thereof shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand.

(5) For the purposes of this section, a change in the establishment of a school means -

- (a) the provision of any additional class, standard or form, whether or not such class, standard or form is parallel to any existing class, standard or form in the school;
- (b) the provision of any nature or form of education in the school, being a nature or form of education different from the nature or form of education falling within the classification in which the school is for the time being registered under section 14;
- (c) the adoption by the manager of the school, by any means, in relation to the school, of a different nomenclature from that in which the school is for the time being registered as aforesaid;
- (d) any change in the ownership of the school;
- (e) any change in the manager of the school;
- (f) the transfer of the school to a new site;
- (g) the alteration of any qualification for admission to the school.

Regulations regarding School Premises

20. (1) The Director, with the approval of the Minister, may make regulations for health and safety to which the premises of every school shall conform, and such regulations may prescribe different requirements for different classifications of schools:

Provided that if the Director is satisfied with respect to any school that, having regard to the nature of the site or to any existing buildings thereon or to other special circumstances affecting the school premises, it would be unreasonable in such a case to require conformity with any such regulations in any particular respect, he may direct that the school premises shall be deemed to conform to the prescribed requirements.

(2) If it appears to the Director that in the case of any school the premises thereof do not conform to any regulations made under this section, he may order, and in the case of a primary school require the Local Education Authority to order, the owner or manager thereof to execute within a reasonable period, to be stated in the order, such specified works as are necessary to secure such conformity.

(3) Any person who owns or manages a school and fails without reasonable excuse to comply with an order given to him under sub-section (2) shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand.

Duties of Manager

21. (1) The manager of every school shall –
- (a) keep a record in the prescribed form of teachers employed thereat, showing their qualifications;
 - (b) ensure that the school is properly conducted and follows –
 - (i) any applicable curriculum specified under section 22;
 - or
 - (ii) where no such curriculum exists, a curriculum approved by the Director;
 - (c) ensure that the principal keeps a register of enrolment of pupils, and a register of their daily attendance, in such form as may be prescribed;
 - (d) furnish to the Director and any public authority designated by him such statistical information and other returns as he or they may require; and
 - (e) ensure that funds provided by the Government or Local

Education Authority for any purpose at the school are expended for that purpose or are refunded.

(2) Any manager who fails to comply with any of the requirements of this section shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand.

Curriculum

22. The Director may from time to time, with the approval of the Minister, issue written instructions specifying the curriculum to be followed at any class of school.

Religious Instruction

23. (1) Religious instruction may be given in any school.

(2) If the parent of any pupil in attendance at any school requests the principal of that school in writing that the pupil be wholly or partly excused from attendance at religious worship and religious instruction in the school, then, until the request is withdrawn, the pupil shall be excused from such attendance accordingly.

(3) A minister of religion shall have the right of access at such reasonable times as may be agreed to any school for the purpose of giving religious instruction to pupils whose parents profess to be members of his denomination, and have not made a request under sub-section (2).

(4) If the parent of a pupil attending a school desires the pupil to attend religious worship or receive religious instruction of a kind not provided in the school, the manager of the school shall make such arrangements, at the expense of the parent, as may be practicable for the pupil to attend religious worship or receive religious instruction of the kind desired by the parent.

Proscription of Publications

24. The Minister may by notice in the *Gazette* declare any publication or periodical publication to be unsuitable for use in schools, and such a declaration made in respect of a periodical publication shall include all past and future issues thereof, and shall be deemed to extend to all copies, in whatsoever language, of such publication or periodical publication.

Employment of Teachers

25. (1) Except with the prior written approval of the Director no person shall be employed at any school as –

(a) a teacher unless he is a member of the Bechuanaland

Protectorate Teaching Service;

- (b) a teacher of any prescribed class unless he holds such qualifications for teaching in that class as may be prescribed.

(2) The manager of any school which employs and any person who is employed as a teacher contrary to the provisions of sub-section (1) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand.

Fees

26. (1) The Minister may prescribe the fees which shall be charged in any Government school, Local Government school or aided school.

(2) In exercising his powers under this section the Minister may prescribe fees for –

- (a) the instruction, including instruction in special subjects, of pupils;
- (b) special courses of instruction provided for pupils;
- (c) the accommodation, including boarding, provided for pupils;
- (d) books and materials supplied to pupils.

(3) In prescribing such fees, the Minister may –

- (a) fix different fees for different categories of persons, pupils or schools;
- (b) prescribe the circumstances in which fees may be refunded or remitted in whole or in part;
- (c) prescribe the time or date when any fees shall be payable, and the person to whom they shall be paid.

Inspection of Schools

27. (1) The Director, or any Local Education Authority with the approval of the Director, may by notice published in the *Gazette* appoint any person to be an inspector of schools.

(2) An inspector may at any time, with or without notice, enter and inspect any school or any place at which it is reasonably suspected that a school is being conducted, and may inspect and take copies and extracts from any records kept or maintained in relation to any such school or suspected school:

Provided that an inspector appointed by a Local Education

Authority shall only be entitled to so enter and inspect a Local Government School within the area of such Authority.

(3) The manager, principal and staff of a school shall during any such inspection furnish any information which the inspector may require with regard to the care and tuition of the pupils, the names, qualifications and conditions of service of the staff, the curriculum followed, the state of the records, the condition of the buildings, and generally with regard to the management of the school.

(4) Any person who in any way hinders or obstructs an inspector from entering and making an inspection at any school or place in pursuance of this section shall be guilty of an offence, and liable on conviction to a fine not exceeding five hundred rand, or to imprisonment not exceeding twelve months, or to both such fine and imprisonment.

(5) In this section "inspector" means an inspector of schools appointed under sub-section (1) and "records" does not in relation to any private school other than an aided school include books or other documents of account.

Power to Close Schools

28. (1) If, as a result of an inspection carried out under section 27, or otherwise, the Minister is satisfied that –

- (a) any school is conducted in a manner which is calculated to be detrimental to the physical, mental or moral welfare of the pupils attending thereat, or that any instruction has been imparted therein, to any pupil, which is prejudicial to law and order;
- (b) the premises of any school do not and cannot at reasonable expense be made to conform with the requirements of section 20;
- (c) the curriculum to be followed by virtue of section 21(1) (b) is persistently and materially departed from in any school;
- (d) any publication or periodical publication which is for the time being declared to be unsuitable for use in schools by the Minister under section 24, or any copy thereof or extract therefrom, is, or has been after the date of such declaration, used or referred to in, or in the course of, or as part of, the instruction provided in any school;
- (e) any school is not for the time being registered under and in accordance with this Part;

- (f) a change has been made in the establishment of a registered school contrary to section 19 (1);
- (g) any person who has been convicted of an offence under sub-section (3) is managing or assisting in the management of any school; or
- (h) any person managing or assisting in the management of any school, or the pupils or a substantial number of them enrolled or attending thereat, is or are, or has or have recently been, engaged in activities prejudicial to law and order, or that the premises of the school or any part thereof are or have recently been used for activities prejudicial as aforesaid.

he may order the manager of such school to close the school.

(2) Any school ordered to be closed under this section and which has remained closed for a period of less than six months may be reopened at the discretion of the Minister; but, whenever a school ordered to be closed under this section has remained closed for a consecutive period of six months or more the Director shall remove the name of the school from the register and any reopening thereof shall require a fresh registration of such school.

(3) The manager of any school which is kept open or reopened contrary to the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand, or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

PART IV

SUPPLEMENTARY

Appeals to Minister

29. (1) Any person aggrieved by a decision of the Director not to register a school by virtue of the provisions of section 18 (1) or (2), not to register any change in the establishment of a school by virtue of the provisions of section 19 (2), not to approve a curriculum in terms of section 21 (1) (a) (ii) or not to give approval for the employment of a teacher contrary to the requirements of paragraph (a) or (b) of section 25 (1), may appeal to the Minister and the Minister may confirm or vary such decision.

(2) Any decision of the Minister under this section shall be final and shall not be questioned in any court of law.

Regulations

30. (1) The Minister, by notice in the *Gazette*, may make regulations prescribing any matter or thing which under this Law is to or may be prescribed and generally for the better carrying out of the objects and purposes of this Law

(2) Such regulations may prescribe –

- (a) the conditions for payment of grants and advances on loan;
- (b) the requirements for school buildings, premises and equipment;
- (c) the conditions under which funds raised by local authorities or other bodies for educational purposes may be expended for such purposes;
- (d) compulsory attendance at schools in any area, and the manner in which compulsory attendance is to be ensured;
- (e) the conditions for the grant and withdrawal of bursaries and scholarships;
- (f) the conditions for admission to any school or schools and the conditions for expulsion or exclusion from schools;
- (g) the inspection, examination or supervision of schools;
- (h) safeguards for the health of pupils and staff in any school, and the manner in which school medical inspection shall be carried out;
- (i) the regulation of procedure in any school committee or board appointed or established under the provisions of this Law;
- (j) the subjects of instruction to be given in any school and courses in such subjects, and any syllabus to be followed in connection therewith;
- (k) the conditions of any examination held by or under the direction of the Department and the fees payable in respect of any such examination;
- (l) the manner in which records, statistics and accounts shall be kept and the returns or reports required by the Minister shall be made to the Department;

- (m) the manner and form in which applications for the establishment and registration of schools shall be submitted and the information which shall be furnished in relation thereto and the manner and form in which such registration shall be effected;
- (n) the manner in which schools shall be classified and the nomenclature thereof and of the classes or standards or forms into which schools may be divided;
- (o) the conditions for the use of buildings of schools out of school hours;
- (p) the number and qualifications of staff required in any school;
- (q) the manner in which the supervision of aided schools shall be carried out;
- (r) the conditions for the administration of corporal punishment;
- (s) any other matter required to be prescribed.

Repeal of Cap. 70 and Cap. 80

31. (1) The African Education Proclamation is repealed.

(2) The Moeng College Constitution Proclamation is repealed with effect from the third appointed day.

Passed by the Legislative Assembly this day,

the 23rd August, 1966.

G.T. MATENGE,
Clerk of the Legislative Assembly.