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Govt Notice No 1101—Bill for introduction into the Legislative Council—

An Ordinance to Reform the Law relating to Education in the
Colony

GOVERNMENT NOTICE No 1101

The Governor in Council has approved of the following Bill being introduced into the Legislative Council

G J ELLERTON,
Acting Clerk to the Legislative Council

**A BILL ENTITLED
AN ORDINANCE TO REFORM THE LAW RELATING
TO EDUCATION IN THE COLONY**

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows —

PART I—SHORT TITLE, COMMENCEMENT AND INTERPRETATION

Short title and
commencement

1. This Ordinance may be cited as the Education Ordinance 1952, and shall come into operation on such date as the Governor shall, by notice in the Gazette, appoint

Interpretation

2. In this Ordinance, unless the context otherwise requires—

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‘Advisory Council’ means a Council appointed under Part III of this Ordinance,

‘Board of Governors’ means a Board established under Part VI of this Ordinance,

‘Department’ means the Department of Education of the 10 Colony,

‘Director’ means the person for the time being holding the office of Director of Education,

‘District Education Board’ means a board established under Part VIII of this Ordinance, 15

‘Government school’ means a school maintained out of public funds and managed by the Department,

‘manager’, in relation to any school other than a Government school, means the person or body of persons responsible for the management of the school, and for the purposes of the 20 provisions of this Ordinance relating to applications for the establishment of schools, and registration of schools, includes any person or body of persons proposing to be so responsible,

‘medical inspection’ means the physical examination of children in attendance at school and the consideration of all 25 matters affecting the health of such children by a school medical officer and shall include physical examination by a school nurse,

‘Member’ means the Member of the Executive Council for the time being responsible for Education, 30

‘parent’ in relation to any pupil or child, includes a guardian and every person who has the actual custody of the pupil or child,

‘public school’ means any school maintained or aided by way of a recurrent grant out of public funds or the funds of 35 any public local authority,

‘pupil’ includes a person of any age for whom education is required to be provided under this Ordinance and any person enrolled on any register of enrolment of children in attendance at a school maintained in the school, 40

‘Regional Education Board’ means a board established under Part IX of this Ordinance,

‘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 any such regular instruction, and any institution or place from which a regular instruction emanates, or is imparted, by means of correspondence, but shall not include—

5 (a) any institution or assembly in which the instruction is, in the opinion of the Director, wholly or mainly of a religious character, or

(b) any institution owned and maintained by a religious society for the purpose of training persons—

10 (i) for the ordained ministry, or

(ii) for admission to a religious order under the direction of or associated with such religious society

15 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,

“School Committee” means a committee established under Part VII of this Ordinance,

20 “school medical officer” means any officer of the Medical Department of the Colony appointed by the Director of Medical Services to act as a school medical officer and any other person licensed or registered as a medical practitioner under the Medical Practitioners and Dentists Ordinance so Cap 125
25 appointed,

“school nurse” means any person appointed by the Director of Medical Services to be a school nurse

PART II—CENTRAL ADMINISTRATION

30 3. (1) It shall be the duty of the Member to promote education in the Colony and the progressive development of schools, consistently with the powers of direction and control vested in the Member by this Ordinance

Duties and powers of Member and Department

(2) The functions of the Department shall be the performance of all work necessary or incidental to the duties and
35 powers of the Member and the exercise of any powers or the carrying out of any duties that may be specially conferred on it by this Ordinance or by rules or regulations made thereunder

Member's powers in respect of public funds, etc

40 4. The Member may from time to time from public funds—

(a) establish or maintain or make grants in aid of or advances on loan in respect of schools and libraries,

45 (b) establish or maintain boarding houses accessory to schools established or maintained under this Ordinance, and make grants or advances in aid of the establishment, maintenance or repair of boarding houses accessory to schools maintained under this Ordinance

50 Provided that in the case of any public school other than a Government school the consent of the manager shall first have been obtained,

55 (c) maintain, or make grants or advances in aid of, any body of persons, institutions or organizations which promote the education or welfare of the people of the Colony or a substantial section thereof,

(d) provide for the conduct of all such examinations as are held under the supervision or control of the Department,

- (e) provide in whole or in part for transporting pupils to and from any public school, or for, or in connexion with, the activities of any body of persons, institution or organization maintained or aided out of public funds, 5
- (f) provide for the compulsory medical inspection of pupils at any public school and for the exclusion on medical grounds of pupils from any such school,
- (g) provide for the reimbursement of the expenses of any body constituted under the provisions of this 10 Ordinance,
- (h) make such other provision for the carrying on of public education as may be consistent with the provisions of this Ordinance

Bursaries

5. The Member may from time to time from public 15 funds provide bursaries to assist in the education, maintenance and transport of pupils who are undergoing or proceeding to undergo courses of instruction at any institution approved by the Member, and may withdraw such bursaries, provided always that the grant or withdrawal of any bursary shall be 20 in accordance with and subject to conditions prescribed by rules made under this Ordinance

PART III—ADVISORY COUNCILS

Appointment of
Advisory
Councils

6. The Member may by order appoint one or more Advisory Councils to advise the Director in matters affecting 25 education in the Colony or affecting the education of any community or section of the public

Functions

7. The functions of an Advisory Council shall be to advise the Director upon the following matters in connexion with the education of those in whose interest the Council is 30 appointed—

- (a) the organization of educational facilities,
- (b) the course of instruction to be given in different types or classifications of schools,
- (c) the fees to be charged in public schools, 35
- (d) the fees to be charged for boarding at public schools,
- (e) proposed legislation affecting education,
- (f) any matter submitted by two members of the Council,
- (g) any other matters referred to the Council by the Director 40

Constitution

8. An Advisory Council shall consist of such and so many members as the Member may from time to time decide, who shall hold office for a period of three years

Provided that—

- (i) the Chairman of every Advisory Council shall be the 45 Director or his nominee,
- (ii) the Member may at any time revoke the appointment of any member,
- (iii) the Member may at any time appoint a person to act temporarily in the place of any member in case of 50 the absence or inability to act of such member

Secretary

9. The Secretary to an Advisory Council shall be an officer of the Department appointed by the Director

Procedure

10. An Advisory Council may—

- (a) decide the number required to constitute a quorum of 55 the Council,

(b) appoint, and decide the constitution and powers of, committees of the Council,

(c) regulate its own procedure in so far as the same is not prescribed by regulations made under this Ordinance

⁵ **11.** An Advisory Council shall meet not less than once Meetings
in every year and at such other times as the Director may
decide, on receipt of a written request signed by three mem-
bers of the Council, the Director shall summon a meeting of
the Council to be held within six weeks of such request

¹⁰ **12.** An Advisory Council, at the discretion of the Chair- Attendance of
man, may invite any person or persons to attend any meeting non-members
of the Council or its committees and such person or those
persons may take part in the proceedings of that meeting but
shall not be entitled to vote

¹⁵ **13.** It shall be the duty of the Director, as Chairman of Reports
an Advisory Council, to report to the Council the action taken
on any matter on which the Council has advised the Director

14. The order appointing an Advisory Council and Gazette ment of
every appointment, revocation of an appointment, and resig- Council etc
²⁰ nation of a member of an Advisory Council shall be notified
in the Gazette

PART IV—RELIGIOUS INSTRUCTION

15. (1) Subject to the provisions of this section, religious Religious
instruction shall be given in every public school instruction in
public schools

²⁵ (2) If the parent of any pupil in attendance at any public
school requests that he be wholly or partly excused from
attendance at religious worship in the school or from attend-
ance at both religious worship and religious instruction in the
school, then, until the request is withdrawn, the pupil shall be
³⁰ excused from such attendance accordingly

(3) Where the parent of a pupil attending a public school
desires him to attend religious worship or religious instruction
of a kind which is not provided in the school, the school shall
provide such facilities as may be practicable for the pupil to
³⁵ receive religious instruction and attend religious worship of
the kind desired by the parent

Provided that the Director may by order, published in the
Gazette, direct that the provisions of this sub-section shall not
⁴⁰ apply to any school or classification or type of school or pupils
of a particular religious persuasion in any school or classifica-
tion or type of school

PART V—MANAGEMENT OF SCHOOLS

16. (1) No person shall without the prior written Restriction on
approval of the Member manage or assist in the management management of
⁴⁵ of any school or group of schools schools without
consent of
Member

(2) The Member may at any time in his discretion, by
notice in writing to the manager of any school or group of
schools, withdraw any approval given by him in respect of such
manager under sub-section (1) of this section

⁵⁰ **17.** Any person who manages or assists in the manage- Offence
ment of a school or group of schools without the written
approval of the Member given under section 16 of this Ordin-
ance shall be guilty of an offence and shall be liable on con-
viction to a fine not exceeding two thousand shillings and in
⁵⁵ default of payment to imprisonment for a period not exceed-
ing six months

PART VI—BOARDS OF GOVERNORS

Establishment of
Boards of
Governors for
Government
schools

18. If, in the opinion of the Member, the establishment of a Board of Governors would be in the interests of any Government school or group of Government schools, he may by order establish a Board of Governors for that school or group of schools 5

Constitution and
functions of
Board for
Government
school

19. An order establishing a Board of Governors under section 18 of this Ordinance shall provide for—

- (a) 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 so specified, 10
- (b) a membership of the Board of not less than three and not more than nine persons,
- (c) the representation on the Board of the Government, the community or communities served by the school or group of schools and such bodies or organizations as, in the opinion of the Member, have a claim to be represented thereon, 15
- (d) the method by which continuity of membership of the Board will be provided, 20
- (e) the revocation of the appointment of, retirement of, and resignation of, members of the Board and the appointment of temporary members thereof in case of absence or inability to act of other members thereof, 25
- (f) the respective responsibilities and duties of the Board and of any trustees incorporated under the provisions of the Land (Perpetual Succession) Ordinance in whom any land is vested in trust for any school or group of schools affected by the order, 30
- (g) such other matters as the Member may consider necessary in respect of the constitution, functions or procedure of the Board

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Gazettement of
Board

20. The order establishing a Board of Governors shall be notified in the Gazette 35

Proposals for
establishment of
Board for public
schools other
than Govern-
ment schools

21. (1) Where in the opinion of the Director it is desirable that a Board of Governors should be set up to manage a public school other than a Government school or group of such schools he shall cause proposals thereanent to be placed before the manager or managers of that school or group of schools 40

(2) Where in the opinion of the manager or managers of any such school or group of schools as are referred to in sub-section (1) of this section it is desirable that a Board of Governors be set up to manage the school or group of schools he or they shall submit proposals thereanent to the Director 45

(3) The Director shall submit any proposals made by or to him under sub-section (1) or sub-section (2) of this section to the Member who may adopt any such proposals with or without modification and where the Member adopts any such proposals, with or without modification, he shall proceed to establish, by order, a Board of Governors for the school or group of schools to which such proposals relate 50

Constitution and
functions of
Boards for
public schools
other than
Government
schools

22. An order establishing a Board under section 21 of this Ordinance shall provide for— 55

- (a) 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 so specified,

- (b) a membership of the Board of not less than three and not more than fifteen persons,
- (c) the representation on the Board of, subject to the provisions of Part V of this Ordinance, the former manager or managers, the Government, and the community or communities served by the school or groups of schools and of such other bodies or organizations as may be mutually agreed on by the Member and the former manager or former managers, all in such numbers and proportions as may be so agreed
 Provided always that the Member's nominees under this paragraph shall in no case be fewer than two,
- (d) the method by which continuity of membership of the Board may be provided,
- (e) the revocation of the appointment of, retirement of, and resignation of, members of the Board, and the appointment of temporary members thereof in case of absence or inability to act of other members thereof,
- (f) the respective responsibilities and duties of the Board and of any trustees incorporated under the provisions of the Land (Perpetual Succession) Ordinance in whom any land is vested in trust for any school or group of schools affected by the order,
- (g) such other matters as the Member may consider necessary in respect of the constitution, functions or procedure of the Board

23. The Member may direct the Director to suspend the payment of any moneys due to be paid out of public funds to the manager of, or in respect of, any school, in any case in which the Member has adopted, with or without modification, proposals made under section 21 of this Ordinance in respect of such school, until the establishment of a Board in accordance with section 22 of this Ordinance

Suspension of grants, etc

24. (1) The Member may approve, with or without modification, the constitution of any Board of Governors in existence at the commencement of this Ordinance and thereupon such Board shall be deemed to be a Board of Governors appointed under this Ordinance and shall continue to function under such constitution or under such constitution as so modified as aforesaid

Existing Boards and modification of Certificates of Incorporation under the Land (Perpetual Succession) Ordinance
Cap 163

(2) The Member, before making an order establishing a Board of Governors under this Part in relation to any school, may require that any trustees incorporated under the Land (Perpetual Succession) Ordinance in whom any land is vested in trust for the school shall apply to the Governor in Council for amendment, in such terms as the Member may require, of the certificate of incorporation granted by the Governor in Council under that Ordinance, and whether or not such an application is made, the Governor in Council shall have power to amend any such certificate in such manner as he thinks fit or to cancel any such certificate and make such consequential order, which shall have the force of law, for divesting the trustees of the land for the time being vested in the trustees and for vesting such land in such person or body as the Governor in Council may think fit upon trusts as nearly as possible in conformity with the trusts upon which such land was held immediately prior to such order

(3) An order made under the provisions of sub-section (2) of this section shall not be liable to any stamp duty and any officer concerned with the registration of the title to the land

affected by such order shall register the same in respect of such title without payment of any fee, and any such order may be registered under the provisions of the Registration of Titles Ordinance notwithstanding the provisions of section 80 of that Ordinance

Cap 160

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PART VII—SCHOOL COMMITTEES

Establishment of
School
Committees for
Government
schools

25. Where in the opinion of the Director the establishment of a School Committee is in the interests of a Government school or a group of Government schools he shall by order establish such a Committee

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Constitution and
functions of
School
Committees

26. An order establishing a School Committee under section 25 of this Ordinance shall provide for—

- (a) the exercise by the Committee of the power of considering and refusing applications for admission to the school or group of schools specified in the order subject to such limitations or restrictions as may be so specified

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Provided that where the Committee refuses any application for admission, a right of appeal against such refusal shall lie to the Director whose decision shall be final,

- (b) a membership of the Committee of not less than three or more than nine persons,
- (c) the representation on the Committee of the Government, the community or communities served by the school or groups of schools and such other bodies or organizations as, in the opinion of the Director, have a claim to be represented thereon,
- (d) the method by which continuity of membership of the Committee shall be provided,
- (e) the revocation of the appointment of, retirement of, and resignation of, members of the Committee, and the appointment of temporary members thereof in case of absence or inability to act of other members thereof,
- (f) such other matters as the Director may consider necessary in respect of the constitution, functions or procedure of the Committee

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Provided that unless the order specifically so provides the Committee shall have no control or authority over any teacher or servant appointed by the Government

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Gazettement of
Committees

27. The order establishing a School Committee shall be notified in the Gazette

Proposals for
establishment of
Committees for
public schools
other than
Government
schools

28. (1) Where in the opinion of the Director, it is desirable that a School Committee be set up in respect of any public school other than a Government school or group of such schools he shall cause proposals thereanent to be submitted to the manager or managers of that school or group of schools

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(2) Where in the opinion of the manager or managers of any such school or group of schools as are referred to in sub-section (1) of this section it is desirable that a School Committee be set up in respect of that school or group of schools he or they shall submit proposals thereanent to the Director

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(3) The Director may adopt any proposals submitted by or to him under sub-section (1) or sub-section (2) of this section, with or without modification, and where he adopts any such proposals, with or without modification, the Director shall pro-

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ceed to establish, by order, a School Committee for the school or group of schools to which such proposals relate

29. An order establishing a School Committee under section 28 of this Ordinance shall provide for—

Constitution and
functions of
Committees

5 (a) a membership which shall not be less than six and not more than fifteen persons,

(b) the representation on the Committee of the manager, or managers, the Government and the community or communities to be served by the school or group of schools,

10 (c) the method by which continuity of membership of the Committee is to be secured,

(d) the revocation of the appointment of, retirement of, and resignation of, members of the Committee, and the appointment of temporary members thereof in case of absence or inability to act of other members thereof,

15 (e) the decision by the Committee of applications for admission to the school or group of schools specified in the order

20 Provided that where the Committee refuses any application for admission a right of appeal against such refusal shall lie to the Director whose decision shall be final,

25 (f) such other matters as the Director may consider necessary in respect of the constitution, functions or procedure of the Committee

Provided that—

30 (i) unless the order otherwise provides the Committee shall be prohibited from exercising any authority over any teacher or servant appointed by the manager or managers,

35 (ii) the order shall make provision for a right of appeal to the Director, whose decision thereon shall be final, in respect of staffing changes made by the manager or managers to which the Committee object

30. The Director may suspend the payment of any moneys due to be paid out of public funds to the manager of, or in respect of, any school, in any case in which the Director has adopted, without or without modification, proposals made under section 28 of this Ordinance in respect of such school, until the establishment of a School Committee in accordance with section 29 of this Ordinance

Suspension of
grants, etc

45 PART VIII—DISTRICT EDUCATION BOARDS

31. The Director may by order establish a District Education Board in respect of any area or areas in which, in the opinion of the Director, the establishment of such a Board is likely to promote, or assist the development of, education

Establishment of
District
Education
Boards

50 **32.** (1) An order establishing a District Education Board under section 31 of this Ordinance shall specify the classification or type of schools, or groups of schools, to which the order applies and the area or areas over which the Board shall be entitled to exercise jurisdiction

Orders
establishing
Boards and
Gazettement

55 (2) Every order establishing a District Education Board shall be notified in the Gazette

Membership

33. A District Education Board shall consist of the following members—

- (a) one member, who shall be Chairman of the Board, to be appointed by the Member,
- (b) one member, who shall be Secretary and Executive Officer of the Board, to be appointed by the Director,⁵
- (c) four members to be appointed by the local government authority for the area or areas over which the Board has jurisdiction, or, where there is more than one such authority, to be appointed by such local government authorities in such proportions as the Member may direct,¹⁰
- (d) four members to be appointed by the manager or managers of the schools or groups of schools specified in the order establishing the Board subject to the prior approval of such members by the Provincial Commissioner or Commissioners for the area or areas concerned¹⁵

Period of office

34 Every member of a District Education Board appointed under paragraphs (c) and (d) of section 33 of this Ordinance shall, subject to the provisions of section 37 of this Ordinance, hold office for a period of three years from the date of his appointment and shall be eligible for re-appointment²⁰

Appointment of temporary members

35 Whenever the Director is satisfied that any member of a District Education Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office he may authorize the appointment by the appropriate authority, body or person of some fit person to be a deputy to act for such member during the period of such incapacity²⁵

Casual vacancies

36. Whenever the appointment of a member of a District Education Board is revoked and whenever a member shall resign or die, the person or body responsible for his appointment shall appoint another member to take his place, and the appointment of such a member shall expire on the date on which the appointment of the member whose place he has taken would have expired by effluxion of time³⁰

Revocation of appointment

37. The Member may, on the recommendation of the Director, at any time revoke the appointment, whether made by the Member or not, of any member of the Board

Meetings

38. A District Education Board shall meet not less than once in every year, the Chairman of the Board may summon a special meeting whenever he considers such a meeting to be necessary and shall, on the written request of not less than three members of the Board, summon such a meeting to be held within six weeks of such request⁴⁰
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Attendance of non-members

39. The Director, or his representative, and the Provincial Commissioner, or his representative, may be present at any meeting of a District Education Board and may take part in the proceedings thereat but shall not be entitled to vote, the Chairman of the Board may invite any person to attend any meeting of the Board and such person may take part in the proceedings of that meeting, but shall not be entitled to vote⁵⁰

Functions of Board

40. The functions of a District Education Board, in respect of the schools or group of schools specified in the order establishing the Board, and in respect of the area over which the Board has jurisdiction shall consist of—⁵⁵

- (a) the preparation of estimates of revenue and expenditure;

- (b) the receipt of subventions or grants-in-aid from public funds and from the funds of any local government authority or authorities,
- 5 (c) the administration of grants-in-aid in respect of such schools and in accordance with such estimates as may be approved by the Director,
- (d) the receipt of school fees,
- (e) the administration of bursaries provided out of the funds of any local government authority or authorities within the area or areas over which the Board has jurisdiction,
- 10 (f) the submission to the Director for approval of plans for the promotion or development of education in the area or areas over which the Board has jurisdiction and the carrying out of such approved plans,
- 15 (g) the tendering of advice to the Director on the establishment and management of new schools,
- (h) the submission of such statistical, financial and other reports as the Director may require,
- 20 (i) the management of any school on behalf of any public local authority,
- (j) such other matters as may be prescribed by regulations made under this Ordinance

41. Regulations may be made under section 80 of this Regulations
 25 Ordinance for all or any of the following purposes with regard to any District Education Board established under this Ordinance—

- (a) for prescribing the powers and duties of the Board in regard to the establishment, supervision and management of the schools or groups of schools specified in the order establishing the Board or situate within the area or areas over which the Board has jurisdiction,
- 30 (b) for prescribing the manner and form in which records, statistics and accounts shall be kept by the Board and the manner in which the Board shall render returns and make recommendations to the Director,
- 35 (c) for prescribing, subject to the provisions of sections 38 and 39 of this Ordinance, provisions as to, and the procedure to be followed at, meetings of the Board,
- 40 (d) for prescribing the manner and form in which development plans shall be drawn up and submitted to the Director for his approval by the Board

PART IX—REGIONAL EDUCATION BOARDS

42. The Director may by order establish a Regional Establishment of Regional Education Boards
 45 Education Board in respect of any area or areas which, in the opinion of the Director, the establishment of such a Board is likely to promote, or assist the development of, education

43. (1) An order establishing a Regional Education Orders establishing Boards and Gazettement
 Board under section 42 of this Ordinance shall specify the
 50 classification or type of schools, or groups of schools, to which the order applies and the area or areas over which the Board shall be entitled to exercise jurisdiction

(2) Every order establishing a Regional Education Board shall be notified in the Gazette

44. A Regional Education Board shall consist of the fol- Membership
 55 lowing members—

- (a) one member, who shall be Chairman of the Board, to be appointed by the Member,

- (b) one member, who shall be Secretary and Executive Officer of the Board, to be appointed by the Director,
- (c) eight other members, of whom at least one shall be a woman, appointed by the Member in such proportions as he thinks fit to represent the interests of such bodies, organizations and communities as the Member may consider to be concerned in the furtherance of education in the area specified in the order establishing the Board

Period of office

45. Every member of a Regional Education Board appointed under paragraph (c) of section 44 of this Ordinance shall, subject to the provisions of section 48 of this Ordinance, hold office for a period of three years from the date of his appointment and shall be eligible for re-appointment

Appointment of temporary members

46. Whenever the Director is satisfied that any member of a Regional Education Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office he may appoint some fit person to be a deputy to act for such member during the period of such incapacity

Casual vacancies

47. Whenever the appointment of a member of a Regional Education Board is revoked and whenever a member shall resign or die the Member shall appoint another member to take his place and the appointment of such a member shall expire on the date on which the appointment of the member whose place he has taken would have expired by effluxion of time

Revocation of appointment

48. The Member may, on the recommendation of the Director, revoke the appointment, whether made by the Member or not, of any member of the Board

Meetings

49. A Regional Education Board shall meet not less than once in every year, the Chairman of the Board may summon a special meeting whenever he considers such a meeting to be necessary and shall, on the written request of not less than three members of the Board, summon such a meeting to be held within six weeks of such request

Attendance of non-members

50. The Director, or his representative, and the Provincial Commissioner or the Provincial Commissioners of the area or areas over which a Regional Education Board has jurisdiction, if not members of the Board, or his or their representative or representatives, and any other person invited by the Chairman of the Board, may take part in the proceedings at any meeting of the Board but shall not be entitled to vote, the Chairman may invite any person to attend any meeting of the Board and such person may take part in the proceedings at that meeting, but shall not be entitled to vote

Functions of Board

51. The functions of a Regional Education Board, in respect of the schools specified in the order establishing the Board, and in respect of the area over which the Board has jurisdiction shall consist of—

- (a) the preparation of estimates of revenue and expenditure,
- (b) the receipt of subventions or grants-in-aid from public funds and from any such source as may be approved by the Member,
- (c) the administration of grants-in-aid in respect of such schools and in accordance with such estimates as may be approved by the Director,
- (d) the receipt of school fees,
- (e) the submission to the Director for approval of plans for the promotion or development of education in the area or areas over which the Board has jurisdiction and the carrying out of such approved plans,

- (f) the tendering of advice to the Director on the establishment and management of new schools,
- (g) the submission of such statistical, financial and other reports as the Director may require,
- 5 (h) such other matters as may be prescribed by regulations made under this Ordinance

52. Regulations may be made under section 80 of this Ordinance for the like purposes with regard to any Regional Education Board as may, under section 41 of this Ordinance, be
10 made with regard to a District Education Board

Regulations

PART X—CONTROL OF SCHOOLS

53. (1) The Director may adopt a system of classification with appropriate nomenclature for distinguishing—

Classification and nomenclature thereof

- 15 (a) different types of schools according to the, or the highest, form or nature of education provided therein respectively, and
- (b) different forms, standards or classes within schools according to the stage and nature of education provided therein respectively

20 (2) Any manager of a school who refers to such school in, or in the course of, any correspondence, or any advertisement or any literature, whether similar to the foregoing or not, 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,
25 registered under this Part, shall be guilty of an offence, and liable on conviction to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding two months or to both such fine and imprisonment

54. (1) Any person desirous of establishing a school shall
30 first make application for the registration thereof in accordance with regulations made under this Ordinance

Registration of schools

(2) For the purposes of this Ordinance, the establishment of a school shall be deemed to include—

- 35 (a) the provision of any additional form, standard or class in any school, whether or not such form, standard or class is parallel to any existing form, standard or class in the school, or
- 40 (b) the provision of any nature or form of education in any 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 this Part, or
- 45 (c) the adoption by the manager of any school, by any means, in relation to the school, a different nomenclature from that in which the school is, for the time being, registered as aforesaid, or
- 50 (d) the reopening of any school which has remained closed for a consecutive period of six months or more, or
- (e) the transfer of the ownership or management of any school, whether such transfer takes effect by way of partnership or otherwise

(3) An application for registration of a school shall state, according to the nomenclature adopted by the Director under section 53 of this Ordinance, the classification of the school
55 sought to be established and the forms, standards or classes to be provided therein, and registration may be effected accordingly or otherwise as the Director thinks proper in relation to the school

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(4) Any registration of a school effected under Part VII of the Education Ordinance (hereby repealed) and in force immediately before the date of the commencement of this Ordinance shall become null and void upon the expiration of six months from such date, upon an application for registration of any such school under this Part the Director may register the school in such classification as he may consider is proper in relation to such school and shall indicate in the register in which such registration is effected the number and category of forms, standards or classes which he considers ought properly to be provided in such school 5 10

(5) The Director may, in his absolute discretion, refuse any application for registration of a school, other than a school to which sub-section (4) of this section applies

(6) The Director shall refuse an application for the registration of any school the manager of which is a person who has not been approved by the Member under section 16 of this Ordinance and may, upon registering any school, register the same in a category which restricts the highest form or type of education which may be provided therein 15 20

(7) The Director may cancel the registration of any school where he is satisfied that—

- (a) the manager thereof has persisted in adopting in relation to the school a different nomenclature from that in which the school is, for the time being, registered under this Part, or 25
- (b) the school has remained closed for a consecutive period of six months or more, or
- (c) any approval by the Member of the manager, or, if there is more than one, of all the managers, thereof, under section 16 of this Ordinance has been withdrawn 30

(8) The Director shall, at convenient intervals, publish in the Gazette, a list of the schools for the time being registered under this Part and of any schools the registration of which has been cancelled 35

(9) Any person who—

- (a) establishes a school which has not been registered in accordance with the provisions of this Part, or
- (b) manages or assists in the management of any such school, or any school the registration of which is cancelled under the provisions of this section, or 40
- (c) manages or assists in the management of any school in which to his knowledge any publication or periodical publication which is for the time being declared to be unsuitable for use in schools by the Member under section 57 of this Ordinance, or any copy thereof, or extract therefrom, is used or referred to in, or in the course of, or as part of, the instruction provided in such school 45 50

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings and in default of payment to imprisonment for a period not exceeding six months and to a further fine not exceeding fifty shillings for each day on which the offence continues after conviction therefor and in default of payment of such further fine to imprisonment for such period as is prescribed by section 29 of the Penal Code 55

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55. (1) The Director shall make regulations prescribing the standards to which the premises of every school shall conform and such regulations may prescribe different standards for different classifications of schools

Regulations
prescribing
standards for
school premises

5 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 that case to require conformity with any such regulations in any
10 particular respect, he may direct that the school premises shall be deemed to conform to the prescribed standards

(2) Where 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 the manager
15 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, being aware that an order made under sub-section (2) of this section in respect of any school
20 has not been complied with, manages or assists in the management of the school to which such order relates shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings and in default of payment to imprisonment for a period not exceeding six months and to
25 a further fine not exceeding fifty shillings for each day on which the offence continues after conviction therefor and in default of payment of such further fine to imprisonment for such period as is prescribed by section 29 of the Penal Code Cap 24

56. (1) It shall be the duty of the manager of every
30 school—

Conduct of
schools

- (a) to keep a record in such form as may be so prescribed, of teachers employed thereat, showing their qualifications,
- (b) to ensure that the school is properly conducted and
35 follows a curriculum approved by the Director,
- (c) to ensure that no nomenclature is adopted for, or in relation to, the school except that in which the school is, for the time being, registered under this Part,
- (d) to ensure that the head teacher keeps a register of en-
40 rolment of pupils and register of their daily attendance in such form as may be so prescribed,
- (e) to furnish to the Department and to any body constituted under this Ordinance whose functions relate to such school such returns as the Director may pre-
45 scribe

(3) Any manager of a school who shall fail to comply with any of the requirements of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred shillings and in default of payment to
50 imprisonment for a period not exceeding two months and to a further fine not exceeding twenty shillings for each day on which the offence continues after conviction therefor and in default of payment of such further fine to imprisonment for such period as is prescribed by section 29 of the Penal Code Cap 24

57. (1) The Director or any person duly authorized by
55 him may from time to time visit, with or without notice, and 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 of, or extracts from, any records
60 or accounts kept or maintained in relation to any such school or suspected school

Inspection of
schools and
proscription of
publications

Provided that in the case of a purdah school the inspection shall be carried out by a woman

(2) For the purposes of this section a school shall be deemed to include any part of such school and any building used in connexion with it, including workshops, dormitories, kitchens, sanatoria, hostels, staff quarters and all ancillary buildings

(3) The Member 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, for the purposes of this sub-section, the expressions "publication" and "periodical publication" have the meanings assigned to them respectively by section 52 of the Penal Code

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Closing of
schools

58. (1) If, as a result of an inspection carried out in accordance with the provisions of the preceding section, or otherwise, the Member is satisfied that—

- (a) any school is conducted in a manner which is calculated to be detrimental to the physical, or mental, or moral, welfare of the pupils attending thereat or that any instruction has been imparted therein, to any pupil which is prejudicial to peace, good order or good government in the Colony, or
- (b) the premises of any school do not and cannot at reasonable expense be made to, conform with the requirements of section 55 of this Ordinance, or
- (c) the curriculum approved under section 56 of this Ordinance is persistently and materially departed from in any school, or
- (d) any publication or periodical publication which is for the time being declared to be unsuitable for use in schools by the Member under section 57 of this Ordinance, or any copy thereof, or extract therefrom, is, or has been, used or referred to in, or in the course, or as part of the instruction provided in any school,
- (e) any school is not for the time being registered under this Part,

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 Director, whenever a school ordered to be closed under this section has remained closed for a consecutive period of six months or more, the reopening thereof shall be deemed, for the purposes of section 54 of this Ordinance, to be the establishment of a new school

Power to take
over schools

59. (1) Whenever an order is made under this Part for the closing of any school, and it appears to the Member to be in the interests of education in the area in which such school is situate that the school should be reopened, the Member may—

- (a) take possession of the school and the site thereof, and reopen the school,
- (b) take possession of any land, adjoining the site of the school, which he considers is required for use in connexion with the school,
- (c) take possession of any chattels, in the school, or which were at the date of the order closing the school, usually used in connexion with the school,

- (d) take water, for the purpose of the school, from any source of supply, whether natural or artificial,
- (e) do, or authorize the doing, in relation to such school, school site, land, chattels or source of water supply, anything which a person being the absolute owner thereof would be entitled to do by virtue of such ownership,
- (f) make any arrangements, including the appointment of managers or a managing body with such powers as he may think fit to vest in him or them, in relation to the management of the school,
- (g) give such directions as appear to him to be necessary or expedient in respect of any of the foregoing matters,
- (h) request any person who was, at the date of the order closing the school, using, or in occupation or possession of, such school, or school site, land, chattels, or source of water supply, to furnish in relation thereto such information as may be in his possession to such person or authority as may be specified in such request,
- (i) delegate, to such extent and subject to such restrictions as he thinks proper, any of his powers under this section, except the power of making rules conferred by sub-section (6) of this section

(2) Any police officer may take such steps and use such force as appears to him to be reasonably necessary for securing compliance with any directions given by the Member under paragraph (g) of sub-section (1) of this section

(3) Where the Member takes possession of any chattels under the powers conferred by sub-section (1) of this section, he may use or deal with, or authorize the use of or dealing with, the chattels in such manner as he thinks fit, and may hold, or sell or otherwise dispose of the same as if he were the absolute owner thereof

(4) Where the source of any water supply is the property of any statutory undertaker, water shall not be taken from such source except with the consent of such statutory undertaker

(5) Any person who proves that he has suffered damage by reason of the exercise of the powers conferred upon the Member by this section shall be entitled to compensation to be paid from public funds, for such damage in accordance with the provisions hereinafter made

(6) The Member shall make rules for determining the principles upon which any compensation payable under sub-section (5) of this section shall be assessed, and may make rules for regulating the manner and form in which claims for compensation shall be made, substantiated and determined, and for regulating the manner in which and the time at which such claims shall accrue and such compensation shall be payable, and for prescribing the person or body by whom and the procedure under which such claims shall be determined, and otherwise for dealing with any matter connected with such compensation or claims in respect thereof or payment thereof

(8) Any person who—

(a) hinders or obstructs the Director or any officer of the Department acting in the course of his duty as such, or any person exercising any powers, or performing any duties, conferred or imposed, by or under this section, or

(b) hinders or obstructs any police officer acting in the exercise of any powers conferred upon him by sub-section (2) of this section, or

(c) fails to comply with any request made to him under paragraph (h) of sub-section (1) of this section, 5

shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand shillings and in default of payment to imprisonment for a term not exceeding six months

(9) For the purpose of this section a school shall be deemed to include any part of such school and any building 10 used in connexion with it, including workshops, dormitories, kitchens, sanatoria, hostels, staff quarters and all ancillary buildings

Offence

60. Any person who keeps open or reopens otherwise than in accordance with the provisions of this Ordinance a 15 school ordered to be closed under section 58 of this Ordinance, or manages or assists in the management of any such school shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings and in default of payment to imprisonment for a period not exceeding six 20 months, and to a further fine, not exceeding fifty shillings for each day on which the offence continues after conviction therefor and in default of payment of such further fine or imprisonment for such period as is prescribed by section 29 of the Penal Code 25

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PART XI—TEACHERS

Certificate or licence to teach required

61. No person shall teach in any school unless he holds a certificate or licence to teach issued by, or with the authority of, the Director and signed by the Director or by such other officer as may be authorized by the Director to sign such certi- 30 ficates or licences on his behalf

Provided that if it appears to the Director that in the case of any particular person not being the holder of such a certificate or licence, special circumstances exist, the Director may authorize such person to teach in any specified school, or 35 classification or type of school, or in any specified standard or form in any specified school, or classification or type of school, subject to such restrictions or limitations as the Director may think fit to impose

Issue and cancellation of certificates or licences to teach and appeal against cancellation

62. (1) The Director may, subject to any rules made 40 under this Ordinance, issue to any person a certificate or licence authorizing such person to teach in any school, or classification or type of schools, and the Director may, at any time, subject to the provisions of sub-section (2) of this section, cancel any such certificate or licence if he is satisfied that such 45 person is an unsuitable person to be a teacher on the grounds that he is incompetent or immoral, or has been convicted of any offence involving dishonesty or fraud, or has imparted to any pupil any instruction which the Director considers to be prejudicial to peace, good order or good government in the 50 Colony

(2) Upon cancelling any certificate or licence under sub-section (1) of this section the Director shall notify the person whose certificate or licence is cancelled, that he may appeal against such cancellation within the period of thirty days from 55 the service of such notification upon him, to a Board established under sub-section (3) of this section, such notification shall state shortly the grounds upon which the certificate or licence has been cancelled

(3) The Member shall by order establish a Board, consisting of three or more persons to be appointed by the Member, who may likewise revoke any such appointment, and any such Board shall have power to consider and determine any
 5 appeal made under sub-section (2) of this section by any person whose certificate or licence to teach has been cancelled, the Board may act on general evidence or statements relating to the character of the appellant and shall not be bound to receive and consider only evidence admissible in a court of
 10 law, and any determination by the Board shall be final and conclusive

(4) The Member may make rules regulating the manner and form in which appeals may be brought before the Board to be established under sub-section (3) of this section and the
 15 procedure of the Board in hearing and determining such appeals, but subject thereto the Board shall determine its own procedure

(5) An order establishing a Board under sub-section (3) of this section, and every appointment of, or revocation of the
 20 appointment of, a member of the Board shall be published in the Gazette

63. (1) The Member may make rules imposing conditions subject to which certificates and licences to teach may be issued and shall have effect under this Ordinance, and such
 25 conditions may prohibit the holder of any such certificate or licence from teaching in any specified standard or form in any school, or classification or type of school

Rules relating to certificates and licences to teach

(2) Any such certificate or licence shall be subject to such conditions as may be prescribed by rules made under this
 30 section

64. The appointment of teachers in any public school other than a Government school shall lie with the manager of such school, but every such appointment shall be subject to the approval of the Director

Approval of appointment of teachers in public schools other than Government schools

65. Any person—

Offences

(a) who, not being the holder of a certificate or licence to teach issued under section 62 of this Ordinance and not being a person authorized by the Director to teach under the proviso to section 61 of this Ordinance, teaches or assists in teaching in any school, or
 40

(b) employs or engages as a teacher in any school any person, not being the holder of a certificate or licence as aforesaid and not being a person authorized as aforesaid,

(c) who, being a person authorized to teach by the Director, under the proviso to section 61 of this Ordinance, teaches or assists in teaching in any school in which he is not so authorized to teach or in any standard or form in which he is not so
 45 authorized to teach, or

(d) employs or engages such a person as is referred to in the preceding paragraph as a teacher in any school or in any standard or form in which such person is not so authorized to teach, or

(e) who teaches or acts as a teacher otherwise than in accordance with any conditions to which his certificate or licence to teach is subject,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand shillings and in default
 60 of payment to imprisonment for a period not exceeding three months

Provided that it shall not be an offence under this section for a person whose certificate or licence to teach has been cancelled by the Director under section 62 of this Ordinance to teach or assist in teaching pending the determination of any appeal lodged by him under that section

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PART XIIA—FEES (GOVERNMENT SCHOOLS)

Fees to be
prescribed, etc

66. (1) Such fees or reduced fees as may be prescribed by rules made under this Ordinance shall be payable in every Government school

Provided that the Member may at any time and for such 10 period as he shall think fit, by order determine that no fees for tuition or for books or for medical attendance shall be payable in any such school, or in any classification or type of such schools, or in any form or standard of such schools, or classification or type of such schools, or in respect of any individual 15 pupil or group of pupils

(2) Any child not subject to the provisions of this Ordinance in relation to compulsory education in respect of whom fees are due and owing may be refused admission or re-admission to school, as the case may be, or if he has been 20 admitted, or re-admitted, may be excluded from school until all fees due up to the date of such exclusion have been paid

Provided that such exclusion shall not take place until the School Committee, or any other committee to which advisory functions in respect of such exclusions may have been 25 delegated by the Director, has been consulted

(3) The Director may remit in whole or in part the fees due in respect of tuition or books or board or medical attendance if he is satisfied that the parent of the pupil in respect of whom such remission is recommended is unable to pay such 30 fees in whole or in part

(4) The Director may, by order, published in the Gazette, require fees for tuition, board, books, or medical attendance payable in respect of the pupils in any Government school, or type or classification of Government schools, to be payable in 35 advance at such time as may be specified in the order and thereupon such fees shall be due and recoverable at such time, the Director may, by the same or any other order, require payment of such fees to be made to the principal of the school attended by the pupils in respect of whom any such fees are 40 or become due or to such other person or body as may be specified in the order and may require payment of some such fees to the principal as aforesaid and of other such fees to such person or body as aforesaid and thereupon the principal or such person or body may recover the fees so ordered to be pay- 45 able to him or them or it as if the fees were due to him or them or it personally, any order issued under this sub-section may be in general or particular terms and may relate to fees due in respect of any future period or periods specified therein or generally to any such fees thenceforward payable

50

(5) The parent of a pupil shall be liable for all fees due in respect of the attendance or board, or both the attendance and board of such pupil at a Government school, whether or not such parent enrolled such pupil, and the Director or the principal or other person or body by whom such fees are 55 recoverable under any order made under sub-section (4) of this section, may, in his or its own name, institute proceedings for the recovery from such parent of any such fees

Provided that where the father, or stepfather, of such pupil is not the parent of such pupil within the meaning of 60 this Ordinance such father, or step-father, as the case may be, and the parent shall be jointly and severally liable for payment of such fees as aforesaid

67. All fees in respect of pupils in Government schools shall be accounted for and paid into the general revenue of the Colony Crediting of fees

PART XII B—FEES (PUBLIC SCHOOLS OTHER THAN GOVERNMENT SCHOOLS)

68. (1) The Director may by regulation prescribe the rate of fees to be charged in any public school other than a Government school for tuition or books or board or medical attendance Fees to be prescribed

10 Provided that if any such school be under the jurisdiction of a Regional Education Board or District Education Board he shall first consult such Board

(2) The Director may by regulation prescribe the body, being a body constituted under the provisions of this Ordinance, to which shall be paid any fees collected in, or in respect of, any public school other than a Government school

(3) The Director may by regulation prescribe the conditions under which any such fees as are mentioned in subsection (1) of this section may be remitted in whole or in part

PART XII—MISCELLANEOUS

69. Any proceedings under this Ordinance may be brought in the name of the Director and it shall be lawful for the Director to appoint any person to conduct such proceedings in court on his behalf and any person so appointed may appear in court and conduct any such proceedings notwithstanding that he is not an advocate within the meaning of the Advocates Ordinance, 1949 Legal proceedings

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70. The Director may by order published in the Gazette prescribe the area to be served by any Government school No pupil resident outside any area so prescribed shall be admitted to any Government school prescribed as serving such area without the written permission of the Director and any child resident outside such area who has been admitted to such a school may be excluded from the school, but such exclusion shall not be deemed to be a sufficient excuse for non-attendance at school within the meaning of Part XIV of this Ordinance Prescription of area to be served by school

71. Every pupil in attendance at a public school shall be liable to medical inspection provided that if the parent of any pupil objects to medical inspection he may signify his objection in writing, through the Board of Governors or School Committee if either the one or the other exists, to the Director, who may excuse such pupil from medical inspection Any excusal or refusal of excusal by the Director under this section shall be final and conclusive Medical inspection and excusal therefrom

72. (1) Every pupil attending a public school and undergoing a course of training for any trade or vocation or a preliminary general course of instruction leading to such course of training may be bound by an apprenticeship deed in accordance with rules made, under this Ordinance to complete such course of training unless released therefrom by the Director and any such rules may make such provision as to the form and contents of such apprenticeship deeds as the Member may consider reasonable Apprenticeship

(2) No stamp duty shall be payable on any apprenticeship deed made under this section

PART XIV—COMPULSORY EDUCATION

Proclamations
applying this
Part

73. (1) The provisions of this Part shall apply to such children, of or between such age or ages, of such sex, resident in such area or areas, and belonging to such race or community, as the Governor may, with the consent of the Legislative Council, specify by proclamation published in the Gazette

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(2) Any proclamation respecting compulsory education made under Part VI of the Education Ordinance (hereby repealed) shall, until revoked or replaced by a proclamation made under this section, have effect as if it were a proclamation made under this section

(3) Any proclamation issued under this section may vary the application of paragraph (d) of sub-section (1) of section 74 of this Ordinance to any area in respect of which the proclamation applies by reducing or increasing the distances of three miles and two miles respectively specified in such paragraph

Duty of parent
to cause child
to be educated

74. (1) It shall be the duty of the parent of every child to whom this Part for the time being applies to cause such child to attend at a school on every day on which such school is open unless—

- (a) such child is, in the opinion of the Director, receiving efficient instruction suitable to the age of such child in some other way, or
- (b) such child is prevented from such attendance by reason of ill-health, or any other cause, whether temporary or permanent, which the Director may deem a sufficient excuse for non-attendance, or
- (c) the parent of such child is, in the opinion of the Director, unable to pay the fees prescribed for tuition under this Ordinance and having applied for exemption from the payment of such fees or any part thereof has not been granted such exemption, or
- (d) such child resides more than three miles or, if he has not completed his ninth year, two miles, by the nearest road from the nearest school, and, in the opinion of the Director, it would be unreasonable to require the attendance of the child at any school on the ground of the distance which such child would be required to travel to school, or on the ground of the financial burden which the cost of such travel would impose on the parent, or on any other ground which the Director deems to be sufficient

(2) It shall be the duty of the parent of every child who has reached the age at which education ceases to be compulsory for such child, and who remains on the roll of any school to cause such child to attend regularly until such child shall be withdrawn in the manner required by regulations made under this Ordinance

Report of
non-attendance

75. The principal of every school shall report to the Director, or other education officer approved by the Director, any case of irregular attendance on the part of any child enrolled at such school and the principal of a school who has been notified that it is proposed to send any child to the school shall report any non-attendance of such child at the school in such manner, and in each case, as may be prescribed by rules made under this Ordinance

76. (1) Whenever a proclamation has been issued under this Part it shall be the duty of every parent of a child who, but for the fact that such child has not yet attained the age at which education becomes compulsory for him, would have been subject to such proclamation, to forward in writing to the Director, the following particulars in regard to the child—

Duty of parent to make report respecting child approaching school age

- (a) full name and sex,
- (b) date of birth (to be substantiated by production of a birth certificate, a baptismal certificate, or a sworn affidavit),
- (c) the nationality and place of birth of the father and mother,
- (d) distance of residence from nearest school,
- (e) name of the school to which it is proposed to send such child, or if the parent of such child does not intend to send the child to school, the manner in which he proposes to provide efficient instruction for the child

(2) The particulars required to be forwarded to the Director under sub-section (1) of this section shall be so forwarded as to be received by the Director—

- (a) in the case of a child whose parent is absent from the Colony at the date of the publication of the proclamation applying to such child, within three months of such parent returning to or arriving in the Colony,
- (b) in the case of a child who will attain the age of compulsory education within six months from the date of such publication, within one month from such date,
- (c) in the case of a child who will not attain the age of compulsory education within six months from the date of such publication, not less than six months before such child will attain such age,
- (d) in any other case, within one month from the date of such publication

(3) Any person who fails to comply with the provisions of sub-sections (1) and (2) of this section shall be guilty of an offence and liable on conviction for the first offence to a fine not exceeding fifty shillings and on conviction for a second or subsequent offence to a fine not exceeding one hundred shillings

77. (1) If the Director or any officer of the Department is of opinion that any pupil is not receiving education he may apply to a magistrate having jurisdiction in the area in which the parent of such pupil resides for an order calling upon the parent to cause such pupil to attend school, and shall at the same time inform such parent that such application is being made to the magistrate and of the date, time and place when and where such application will be heard

Order for attendance at school

(2) The magistrate to whom any such application is made may, after affording the parent an opportunity of stating, either in writing or in person, any reason why such an order should not be made, make an order requiring the parent to cause such pupil to attend school regularly or to give such pupil efficient instruction in some other way to the satisfaction of the Director

Provided that the magistrate may, if he considers that the application should be reconsidered by the Director adjourn the proceedings at any stage thereof

(3) Whenever a magistrate has refused to make an order under sub-section (2) of this section no such application with respect to the same child shall be made before the lapse of four months from the date of such refusal

(4) Any person who fails to comply with an order made under sub-section (2) of this section shall be guilty of an offence and liable on conviction for the first offence to a fine not exceeding fifty shillings and on conviction for a second or subsequent offence to a fine not exceeding two hundred shillings 5

Evidence of
instruction

78. (1) If a parent who is summoned before a magistrate as provided in section 77 of this Ordinance claims that he is providing efficient instruction, the magistrate may call for a report on such instruction to be submitted to him by an officer of the Department 10

(2) Any person who hinders or obstructs any officer endeavouring to obtain material for a report to be made under sub-section (1) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred shillings 15

Provisions
relating to
proceedings and
evidence

79. In any proceedings before a magistrate under this Part the following provisions shall apply—

- (a) it shall lie on the parent to prove that the pupil is not of the age in respect of which attendance at school is compulsory, 20
- (b) a certificate purporting to give particulars of the attendance of a pupil at a school and to be signed by the principal of the school shall be received in evidence and shall, unless the contrary is proved, be deemed to be the document it purports to be and to 25 be signed by the person by whom it purports to be signed without further proof and any such certificate shall be evidence of such particulars,
- (c) the magistrate may by summons require the parent of a pupil to produce the pupil before him and any 30 parent failing to comply with such a summons without reasonable excuse to the satisfaction of the magistrate shall be guilty of an offence and liable to a fine not exceeding one hundred shillings,
- (d) in any proceedings relating to a pupil at which the 35 pupil is present the magistrate shall sit either in a different room from that in which the ordinary sittings of the court are held, or on different days or at different times from those at which the ordinary sittings of the court are held, and no persons other 40 than officers of the Department, the parties to the case, their advocates, and other persons directly concerned in the case shall, except by leave of the magistrate, be allowed to attend,
- (e) no fees shall be payable for any process applied for or 45 issued under this Part

PART XV—RULES AND REGULATIONS

Rules and
regulations

80. (1) The Member may from time to time make rules prescribing—

- (a) the conditions of admission to public schools, 50
- (b) the conditions of expulsion or exclusion from public schools on grounds of age, discipline, or health, and providing for the administration of corporal punishment,
- (c) the manner in which compulsory attendance at school 55 is to be ensured,
- (d) the conditions for the payment of grants-in-aid in respect of boarding houses conducted in connexion with Government schools,

- (e) the conditions of payments of grants-in-aid of or advances on loan in respect of schools or boarding houses,
- 5 (f) the conditions of the grant of bursaries awarded under section 5 of this Ordinance,
- (g) the conditions under which funds raised by African District Councils or other local bodies may be expended for educational purposes,
- 10 (h) the amounts and the manner of payment of fees payable under this Ordinance and the recovery thereof,
- (i) the manner in which the medical inspection and treatment of school children shall be carried out,
- 15 (j) the conditions for securing liberty of conscience and due respect for the religious beliefs of pupils attending public schools,
- (k) the conditions of payment of grants-in-aid or advances on loan in respect of libraries,
- (l) the conditions of the issue of teachers' licences and the withdrawal of such licences,
- 20 (m) the conditions under which children may, for the purpose of learning a trade or becoming teachers, be apprenticed to the Director or his representative or the head of an approved institution,
- (n) the duties of officers appointed under this Ordinance,
- 25 (o) any matter or thing required to be prescribed by rules under this Ordinance,
- (p) generally for the better carrying out of the objects of this Ordinance

(2) All rules made under this section shall have the same
30 force and effect as if they had been enacted in this Ordinance and shall be laid as soon as conveniently may be before the Legislative Council, and if a resolution is passed within forty days of their being so laid before the Legislative Council praying that any such rule shall be revoked or amended, such
35 rules shall thenceforth be deemed to be revoked or amended, but without prejudice to anything done thereunder

(3) The Director may make regulations prescribing—

- (a) the subjects of instruction to be given in any public school and the courses in such subjects,
- 40 (b) the conditions of any examinations held by the Department and the fees payable for any examinations held by or under the supervision of the Department,
- (c) the manner in which records, statistics and accounts
45 shall be kept and returns and reports shall be made to the Department,
- (d) the procedure to be adopted at meetings of bodies constituted under this Ordinance,
- (e) the conditions of the use of the buildings of Govern-
50 ment schools out of school hours,
- (f) the manner and form in which applications for the establishment and registration of schools shall be submitted and the information which shall be
55 furnished in relation thereto and the manner and form in which registration shall be effected,
- (g) the manner in which schools shall be classified and the nomenclature thereof and of the forms or standards into which schools may be divided,
- (h) the standard of building and accommodation in schools or classification of schools,

(i) any matter required to be prescribed by regulations made under this Ordinance

Saving

81. No defect or invalidity in the appointment of any member of any Board, Committee, or other body, constituted, appointed or established under the provisions of this Ordinance, or any rules or regulations made thereunder, shall prejudicially affect or render invalid any proceedings of or the exercise of any functions by, any such Board, Committee or other body

Signification and service of documents

82. (1) Any order, notice, approval, disapproval, or document made or issued by a Board, Committee or other body established, appointed or constituted under the provisions of this Ordinance or any rules or regulations made thereunder may be signified by the Chairman or Secretary of such Board, Committee or other body, or by any member thereof duly authorized in that behalf and any order, notice, approval, disapproval or document purporting to be so authenticated shall be deemed, until the contrary is proved, to have been made or issued by the Board, Committee or other body on whose behalf it purports to have been made or issued

(2) Any order, notice, approval, disapproval, certificate, licence or other document made or issued under this Ordinance or any rules or regulations made thereunder purporting to have been signed by the Director shall be deemed, until the contrary is proved to have been made or issued by the Director

(3) Any order made, or direction given, or document made or issued, under this Ordinance or any rules or regulations made thereunder, purporting to have been made, given or issued by the Member shall be deemed, until the contrary is proved, to have been made, given or issued by the Member

Repeal of Cap 90 and Cap 91

83. The Education Ordinance and the District Education Boards Ordinance are hereby repealed

Provided that any existing rules and regulations made under those Ordinances, or either of them, shall, except only so far as they conflict with the provisions of this Ordinance, remain in force until revoked as if they were rules and regulations made under this Ordinance

MEMORANDUM OF OBJECTS AND REASONS

This Bill is intended to give effect to the recommendations of the Beecher Committee and to repeal and replace the existing Education Ordinances, namely the Education Ordinance (Cap 90) and the District Education Boards Ordinance (Cap 91) to provide a greater degree of control of schools and decentralization of administration. The Bill will generally apply to all races, although under Part XIV a proclamation providing for compulsory education in any area may be made with respect to any particular race or community in any area

2 In accordance with the Membership system the opportunity has been taken to confer upon the Member for Education powers previously exercised by the Governor

3 Part I deals with the interpretation of the expressions used in the Bill. The expression "school" is defined to include an institution comprising ten or more pupils, an assembly of ten or more pupils and any institution in the nature of a correspondence college, but excludes institutions or assemblies concerned only with religious instruction. Any school maintained or aided out of the public funds or the funds of any public local authority is defined as a "public school", and any school which is maintained out of public funds and managed by the Education Department is defined as a "Government school"

4 Under Part II of the Bill the central administration of education in the Colony is provided for by conferring upon the Member various powers in respect of the promotion and development of education out of the public funds

5 Part III provides for the appointment of one or more Advisory Councils to advise the Director of Education in regard to educational matters. An Advisory Council will consist of such members as may be appointed by the Member, under the chairmanship of the Director of Education

6 Part IV makes provision for religious instruction in every public school subject to the right of any parent to require excusal

7 Under Part V provision is made with regard to management of schools of every type and classification. No person is to manage or assist in the management of any school without the prior written approval of the Member who may in his discretion withdraw any such approval. Under *clause* 17 it is an offence to manage or assist in the management of a school without such approval. It is considered that such a provision is necessary to safeguard the characters and morals of pupils during the formative period of their development

8 Parts VI to IX deal with the establishment of the bodies considered necessary to deal with the administrative requirements of the Bill. In particular, the establishment of Boards of Governors and School Committees for public schools and Government schools. Under *clause* 21 the Member has power to establish a Board of Governors for any public school or any group of such schools in accordance with proposals made to him by the manager or managers of such schools or by the Director of Education. The Member may adopt such proposals with modifications. Similar provisions are made by *clause* 28 in respect of the establishment of a School Committee. It is in keeping with the traditional form of educational development that such bodies can be established for both public schools and Government schools

9 The provisions of the Bill as regards the establishment of school Committees differ from the existing Ordinance in that the Bill provides for the establishment of such Committees not only for Government schools but also for public schools and in that the establishment of a School Committee will be a matter in the discretion of the Director of Education

10 With regard to the establishment of District Education Boards and Regional Boards, Part V of the existing Ordinance (Cap 90) provides for School Area Committees for African Education and a separate Ordinance (Cap 91) provides for the establishment of District Education Boards. The Beecher Committee recommended the continuance of District Education Boards to supervise African education at the primary and intermediate levels in native areas, and the establishment of Regional Education Boards to supervise African education at all levels *outside* the native areas, and girls' intermediate boarding schools and all post-intermediate education *in all areas*. Parts VIII and IX of the Bill are designed to implement these recommendations and follow in detail the recommendations of the Beecher Report. The School Area Committees (for which Part V of the existing Ordinance (Cap 90) provides) disappear, since they are no longer necessary

11 Part X deals with the control of schools and provides for important new powers. In particular, no school may be established unless application has been made for registration thereof in accordance with Regulations to be made under the Ordinance. Section 34 of the existing Ordinance (Cap 90) applies only to private schools whereas the new Bill will apply to all schools. For the purposes of the Bill, a school is deemed to be established (and therefore registration must be applied for) whenever—

- (a) any additional form or standard or class is provided, or
- (b) the type of education provided in any school is altered, or
- (c) the management of a school adopts in relation to the school a different nomenclature from that registered in respect of the school, or
- (d) a school which has remained closed for six months or more is re-opened, or
- (e) the ownership or management of a school is transferred

Registration will be in a particular classification to be determined by the Director. The registration of all schools at present registered under the Ordinance which the Bill will repeal will become null and void at the expiration of six months and upon an application for the registration of any such school it will be registered in such classification as the Director of Education thinks proper in relation to the school. Provision is made for the cancellation of registration where—

- (a) a different nomenclature from that under which any school is registered is persistently adopted,
- (b) the school has remained closed for six months or more,
- (c) any approval by the Member of the managers under *clause 16* of the Bill is withdrawn

It is an offence to establish or manage a school which has not been registered

Under *clause 57* the Member may declare any publication to be unsuitable for use in schools

Clause 58 empowers the Member to close a school where he is satisfied that any of the following conditions exist—

- (a) the school is conducted in a manner detrimental to the welfare of the pupils, or instruction which is prejudicial to peace and good order and good government has been imparted therein,
- (b) the premises of the school are sub-standard and cannot be brought up to standard at reasonable expense,
- (c) the approved curriculum has been persistently and materially departed from,
- (d) any publication declared unsuitable under *clause 57* is or has been used for the purpose of instruction in the school, or
- (e) the school is not for the time being registered. In order that closing of a school may not result in pupils in the area being deprived of educational facilities, *clause 59* of the Bill enables the Member to take possession of such school and re-open it under such arrangements, including the appointment of a manager or a managing body as he considers necessary. Powers conferred on the Member under this clause are of necessity wide. Compensation will be payable to any person who proves that he has suffered damage by reason of the exercise of these powers

12 Part XI concerns teachers and differs from the existing Ordinance (Cap 90) in that it empowers the Director of Education to withdraw any certificate or licence to teach subject to an appeal to a Board to be constituted. Under *Clause 62* of the Bill the grounds upon which the certificate or licence to teach may be cancelled are set out and are—

- (a) that the teacher is not a suitable person to be a teacher on the grounds of incompetency, immorality or has been convicted of an offence involving dishonesty or fraud,
- (b) that the teacher has imparted to any pupil instruction prejudicial to peace, good order or good government

It will be an offence to teach without being the holder of a certificate or licence or otherwise in accordance therewith, or to employ an unqualified teacher

13 Parts XIIA and XII B deal with fees in Government schools and public schools respectively. Under *clause 68* the Director of Education may prescribe the rate of fees payable in public schools, a provision which is considered necessary to ensure adequate control in respect of such schools

14 Part XIII deals with compulsory education generally on the lines of the existing Ordinance (Cap 90)

15 Part XIV makes provisions for the rules and regulations to be made by the Member and the Director respectively. Rules made under this Part will have the same force and effect as if they had been included in the Bill. Provision is made in this Part for the saving of existing rules and regulations

If the provisions of this Bill become law additional expenditure of public moneys will necessarily be incurred in view of the wider administrative powers conferred by the Bill

Nairobi,
22nd September, 1952

JOHN WHYATT,
Attorney General