CHAPTER 605

EDUCATION ACT

AN ACT to reform the law relating to education in Malta.

1st January, 2021*

ACT XXIX of 2019.

ARRANGEMENT OF THE ACT

		Articles
	Preliminary	1 - 2
Part I	General Provisions	3 - 10
Part II	Constitution and Functions of the Division of Education	11 - 20
Part III	Licences to establish Schools, Childcare Centres and to provide home education	21 - 31
Part IV	State Schools	32 - 45
Part V	Home Education	46 - 48
Part VI	Educational Entities	49 - 57
Part VII	Offences and Penalties	58 - 63
Part VIII	Miscellaneous	64 - 71

First Schedule - Departments of Education

Preliminary

Short title.

1. The short title of this Act is the Education Act.

Interpretation.

2. In this Act unless the contents otherwise requires:

"accreditation" means the formal approval by the competent authority under this Act or any regulations made thereunder, that the suitability for the operation of a school and, or a childcare centre or an educational programme is meeting the criteria to operate in line with quality standards and in accordance with the relevant provisions of this Act and, or any regulations made thereunder;

"Board", expect where otherwise defined, means the Board for Educational Matters established by article 64;

"childcare centre" means an institution providing education and care services to children aged one (1) day to three (3) years;

"College" means a College of State schools as provided for in

*Only Article 71 of this chapter is in force. See Legal Notices 30 of 2021 and 31 of 2021.

Part IV;

"compulsory school age" means any age from five (5) years to fifteen (15) years, both inclusive, and accordingly a person shall be deemed to be of compulsory school age if he has attained the age of five (5) years and has not attained the age of sixteen (16) years or has not yet completed the last year of secondary school;

"curriculum" means the National Curriculum Framework for all schools at pre-compulsory and compulsory educational level;

"Department" means any department listed in the First Schedule;

"Director General" means a director general of a Department of Education appointed in terms of article 13;

"Division" means the Division responsible for education established by article 11(1);

"educational space" means any location where students attend any educational programme or part thereof, given by an educational practitioner and, or institution;

"educator" means, for the purposes of this Act, heads of departments, heads of schools, assistant heads of schools, education officers, teachers, kindergarten educators and learning support educators;

"employment" includes employment in any labour or work exercised by way of trade or for gain, whether the gain be to the person employed or to any other person, and whether the labour or work is done for wages or other compensation or not, and "to employ" shall be construed accordingly;

"entity" includes a division, a college and any directorate, agency or other organisation as may be established by virtue of this Act or regulations made thereunder, or under any other law, and "entities" shall be construed accordingly;

"financial year" means the period of twelve (12) months ending on the thirty-first (31) of December of any year:

Provided that for the purposes of this Act the first financial year in respect of any entity shall consist of the period which starts running on the date of the coming into force of the relative articles of this Act relating to such entity, and ending on the thirty-first (31) day of December of the following year;

"function" includes any responsibility, power and duty;

"general estimates" means the estimates, presented to the House

in respect of any financial year, of the expenditure for the service of that financial year and includes any supplementary estimates of expenditure for which it may be necessary to provide after those estimates have been presented to the House and in this context "financial year" has the same meaning as it has for the purpose of the Constitution;

"Government" means the Government of Malta;

"Head of College Network" means the natural person to run and administer a College in accordance with article 32(2);

"home educator" means any person, including the parent of a child, in possession of a teachers' warrant issued under article 11 of the Teaching and Allied Professions Act who is duly authorised to provide home education to a child in accordance with the provisions of Part III; Cap.606.

"home education" means the progressive education of a minor provided or organised by his parent whereby a home educator provides tuition to the minor, at the expense of the parent, in substitution to state or non-state education in accordance with the provisions of Part III and any regulations made under this Act, and "home education programme" shall be construed accordingly;

"individual needs" means needs and any difficulties of a physical, sensory, intellectual or psycho-social nature;

"inclusive education" refers to the valuing and acceptance of diversity and the rights of learners to not only attend mainstream schools, but also to belong thereto as valued members by active participation of all learners in and reducing the barriers that may lead to exclusion from school curricula, cultures and community;

"kindergarten" means an institution providing education to children aged three (3) to five (5) years;

"licence holder" means the person in whose name a licence is issued;

"licensed school" means a school which has been granted a licence to operate in accordance with the relevant provisions of this Act and, or any regulations made thereunder;

"lifelong learning" includes all kind of learning activities that an individual undertakes throughout life, with the aim of acquiring and improving attitudes, values, knowledge, skills and competences, and acquiring qualifications that enhance an individual's personal and social dimension as well as the prospects of a better career;

"Malta Qualifications Framework" means the national framework for lifelong learning, being the national instrument for the

development and classification of qualifications according to a set of criteria, established through descriptors and applicable to a different set of levels, as provided by this Act or any regulation made under this Act or any other law;

"Minister" means the Minister responsible for education, and includes, within the limits of any given authority, any person who is specifically authorised by the Minister for any of the purposes of this Act, and "Ministry" shall be construed accordingly;

"national minimum conditions" means the national minimum conditions for all schools referred to in article 5;

"officer" and "employee" include a public officer who is engaged to perform duties with any entity established under this Act;

"parent" means the father or the mother and includes any person who has the care and custody, whether legal or actual, of a child;

"prescribed" means prescribed by any regulation, statute, rule or bye-law;

"public officer" has the same meaning as is given to it by article 124 of the Constitution;

"quality assurance" refers to one or more processes which safeguard the quality of education at all levels within the economic, social and cultural context, on a national, European and international level, and ensures the use of appropriate measures as a means of improving the quality of students' well being, leadership, teaching, learning, training and research;

"quality standards" means the details of the expectations, the various guidelines and characteristics to be able to meet structure, process and outcomes quality by the service provision in order to meet the purpose of the process or service;

"remuneration" includes compensation in any form whether in money or in kind;

"scholastic day" means every day during a scholastic year not being a school holiday or a public holiday;

"scholastic year" means that period determined as the scholastic year in the national minimum conditions;

"school" means an institution the resources of which, both of persons and of things, are ordained towards the promotion of the education and training of other persons through the dissemination of knowledge, and shall include a school providing kindergarten education;

"student" means a minor of pre-compulsory and compulsory school age enrolled in a childcare centre or a school.

PART I

General Provisions

Right to education.

3. Every person of a compulsory school age residing in Malta has the right of access to education without any distinction of age, sex, religion or belief, economic means, race or ethnic origin, political opinion, disability, colour, sexual orientation or gender identity.

Obligations of the State.

4. (1) It is the duty of the State -

(a) to promote education in Malta based on the values of democracy, inclusion, diversity, active citizenship, critical thinking, responsible behaviour and ethical conduct; and

(b) to ensure the existence of a system of schools and other educational institutions in Malta catering for the full development of the whole personality and overall well-being of the person including his ability to work.

(2) In particular, it shall be the duty of the State -

(a) to develop and implement an education policy based on the values set out in sub-article (1);

(b) to establish such educational facilities as are necessary to equip students with the knowledge, skills and competencies required to make the most of global opportunities and to deal with the challenges of society and the economy of today and tomorrow;

(c) to ensure the teaching of the core curricular entitlement as established in the National Curriculum Framework;

(d) to ensure that there exist early childhood education and care centres;

(e) to provide for education of children of compulsory school age;

(f) to ensure the provision of post-compulsory and tertiary education for students who have completed their secondary education;

(g) to promote the teaching of the liberal and expressive arts, science, languages, technology, vocational

education, personal development, life skills and sports among all students.

Right of the State to regulate education.

5. It shall be the right of the State -

(a) to implement the Framework for the Education Strategy for Malta;

(b) to implement the National Curriculum Framework of studies for all schools at pre-compulsory and compulsory education level and the national minimum conditions for all schools;

(c) to establish the national minimum conditions for all schools and ensure adherence by licence holders to such conditions;

(d) to secure compliance with the National Curriculum Framework of studies; and

(e) to ensure the provision of quality inclusive and equitable education by all providers in the education sector:

Provided that, without prejudice to the above-mentioned rights of the State, the State recognises the right of non-state schools to have their own character, identity, ethos, and autonomy.

Duties of parents.

6. It shall be the duty of every parent of a minor -

(a) to ensure that the minor receives all the necessary education for the development of the whole of his personality, including his ability to work and be an active citizen;

(b) to ensure the motivation of the minor for education;

(c) to ensure his disposition for good behaviour and discipline;

(d) to cause the minor to be registered in a school for the first scholastic year and during the period when he is of compulsory school age, provided that the Minister may, by regulations, make provision for special cases, including where the minor was not residing in the Maltese islands;

(e) to ensure that the minor attends school on each scholastic day during all the period of compulsory school age, or up to the end of such further period as the Minister may prescribe by regulations, unless the minor has a good and sufficient cause to be absent from school;

(f) to cooperate fully and with due respect with the

Head of School and all the staff of the school attended by the minor; and

(g) to adhere to policies issued by the Division, the College and the school.

Rights of parents.

7. Subject to the provisions of this Act, it is the right of every parent of a minor to give his decision with regard to any matter concerning the education of the minor, provided that such decision is in the best interests of the minor in accordance with article 8(1).

Best educational interests of the minor.

8. (1) Decisions with regard to matters concerning the education of a minor shall be based primarily on the best educational interests of the minor with due regard to the interests of other students attending the same school as the minor and the continued effective and efficient operation of the school:

Provided that the Board shall, in its decisions, ensure that due regard is given to the principles established in article 4(1)(a).

(2) Where the Head of School of a State school, through the Head of College Network within which a minor is registered, believes that the decision of the minor's parent or parents with regard to any matter concerning the education of the minor is not in accordance with the principle set out in sub-article (1), he shall forthwith bring the matter to the attention of the Division:

Provided that all reasonable solutions, if applicable, have been considered and attempted in such case, the Division may, if it considers it appropriate to do so taking into account the circumstances of the case, make an application to the Board for a decision on the matter.

(3) The Board shall, after giving the Division and the parents of the minor the opportunity to make their submissions in such manner and within such time as may be fixed by the Board, and after listening to the minor and any other person, give a decision on the matter.

(4) An application may also be made to the Board by any parent for a decision with regard to any matter concerning the education of the minor where it is not possible to obtain the consent of the other parent of the minor or where there is disagreement amongst the parents of the minor on any matter concerning the education of the minor. The Board shall, after giving the parents of the minor the opportunity to make their submissions in such manner and within such time as may be fixed by the Board, and, if it considers so appropriate, after listening to the minor and any other person, give a decision on the matter:

Provided that where the whereabouts of a parent are not known, it shall not be required to allow such parent the opportunity to

make submissions.

(5) The Head of School and the parents of the minor shall ensure that the decision of the Board is implemented.

(6) Should there be a change in circumstances, the parents and, or the Head of School may refer the case to the Board for review.

Duties of schools.

9. It shall be the duty of schools -

(a) to accomplish the education strategy for Malta and the National Curriculum Framework according to the potential and the various skills of students attending thereat and according to the ethos, identity and character of the particular school, and to ensure that the National Curriculum Framework is translated into appropriate curricula, programmes, pedagogies and assessments for the students through an adequate school development plan and that these are implemented;

(b) to secure and ensure compliance with the national minimum conditions established for schools;

(c) to establish a culture of lifelong learning and conducive conditions for effective quality teaching and learning based on the values set out in article 4(1);

(d) to promote high standards of learning and teaching in collaboration with educators, learners and parents' committees in a spirit of collective responsibility;

(e) to encourage student involvement and active participation;

(f) to establish a safe and inclusive learning environment;

(g) to ensure good conduct from any person within the school premises;

(h) to ensure the use of positive discipline;

(i) to self evaluate, consult and engage in dialogue to identify the needs of educators, learners and parents through student centred approaches for the purposes of school development planning;

(j) to establish good leadership and management and to promote a team culture among the school's senior management team and staff through cooperation, especially with regards to initiatives, challenges and problems related to the school as a whole;

(k) to promote the continuous professional development of educators;

(l) to establish a culture conducive to an effective home-school partnership; and

(m) to develop an active role within the community, and encourage community involvement and participation.

Minister to represent the State.

10. Wherever under the provisions of this Act a right or a duty is vested in or imposed on the State, that right or duty shall be exercised or fulfilled by the Minister.

PART II

Constitution and Functions of the Division of Education

Division of Education.

11. (1) There shall be a Division of Education, composed of Departments which shall be listed in the First Schedule, as the Minister may determine from time to time.

(2) The Minister may amend the said Schedule and establish or remove any Department as he may deem necessary by means of an Order in the Gazette.

(3) Without prejudice to the provisions of this Act, each Department shall be under the responsibility, guidance and administration of a Director General who shall be responsible for the executive management, administration and administrative control of the officers and employees of the Division.

(4) The functions of the Division are to be performed in such manner as shall be determined by the Minister, as he deems appropriate, from time to time.

Functions of the Division of Education.

12. (1) The functions of the Division of Education shall include the following:

(a) to implement any matter required to achieve the objectives and execute the duties of the State under articles 4 and 5, under the general direction of the Minister;

(b) to ensure that all children of a compulsory school age are registered and duly attending school;

(c) to regulate, establish, monitor and assure standards and quality in the programmes and educational services provided by schools in Malta, whether State schools or not; and

(d) to ensure the effective and efficient operation and delivery of services to State schools within an established

framework of decentralisation and autonomy.

(2) In particular the Division of Education shall:

(a) generally regulate, guide, evaluate, verify, research and report on the various elements and the results of the pre-compulsory and compulsory education system with the aim of assuring quality and equitable education for all and in order to promote good practices in all activities related to such education in a national curricular framework of lifelong learning;

(b) establish and periodically review standards and policies in full respect of the character, identity and autonomy of each school;

(c) periodically review the National Curriculum Framework and propose to the Minister any necessary changes thereto;

(d) provide the required guidelines, among other things, for the better implementation of the education policy and services, including each school's development plan, the syllabi, the establishment of standards, performance assessment, and examinations;

(e) perform external reviews in complement to the internal review so as to provide guidance, monitoring, inspection, evaluation and reporting on educational leadership, the process of teaching and learning, the application of the curriculum, student well-being, learning and assessment programmes or syllabi, pedagogy, assessment and examinations in full respect of the character, identity and autonomy of the school;

(f) be responsible for the compliance with and implementation of the provisions of laws and regulations dealing with matters relating to education;

(g) receive and process applications for the issuing of a licence for the opening of childcare centre and, or a school;

(h) ensure that the national minimum conditions for all schools are being constantly observed and investigate and take all necessary steps required on any matter about which the relevant department may consider the suspension or the withdrawal of a school licence, and take decisions concerning the suspension or the withdrawal of a school licence;

(i) receive, consider and decide upon applications of parents who wish to provide home education to their children by a duly warranted teacher, which warrant shall have been issued under article 11 of the Teaching and Allied Professions Act in lieu of education provided by a school; Cap. 606.

(j) impose any such conditions as it may deem reasonable and appropriate when acceding to such applications as referred to in paragraph (i);

(k) monitor all authorised home education programs and ensure that the quality of education offered in such programmes is of an adequate standard;

(l) ensure that all conditions imposed as referred to in paragraph (j) are being adhered to;

(m) authorize any such person in possession of the necessary qualifications to act as home educator;

(n) provide guidelines for the proper implementation of home education programmes and the procedures to be followed;

(o) regulate, as it deems appropriate, the use of sports facilities, laboratories, workshops and other ancillary facilities of school complexes and colleges as may be offered to home schooled students;

(p) provide accreditation for education until compulsory school age up to level three (3) of the Malta Qualifications Framework;

(q) ensure that all information, data and statistics required for the drafting, the planning and the implementation of policy, strategies, guidelines and directives in education are researched, collated, compiled, and analysed, and, subject to any other law, take all necessary steps so that these may be accessible to whosoever is involved and who may have an interest;

(r) plan, provide and allocate the resources, human and otherwise, services, and learning tools, both of a pedagogical, psychosocial, managerial and operative nature and other ancillary support tools, as required in State schools and State educational institutions;

(s) promote, encourage and monitor the democratic governance of schools through School Councils with the active participation of parents, educators and students;

(t) promote, support, coordinate and ensure lifelong

learning services and initiatives, including educational and cultural initiatives within the community, e-learning and distance learning, adult education, evening classes and other initiatives relating to complementary education and services for persons having specific learning difficulties;

(u) provide the resources required for inclusive and special educational programmes and for other schemes related to individual educational needs;

(v) ensure the supply and the coordination of vocational and career guidance services, including the implementation of programmes with the social partners and civil society aimed at achieving improved school-workplace congruence and assist in the transition stages, including those from school to work;

(w) ensure the provision of services required to generate a culture of respect for all and to deal effectively with issues of good conduct and discipline, of child abuse, of bullying and of substance abuse;

(x) promote the physical and mental health of students through health information and promotion, medical screening services and healthy lifestyle programmes;

(y) administer State aid to non-State schools;

(z) sustain an effective dialogue with whosoever is involved in the educational system and aim for the widest consensus possible about any matter which may be relevant to education;

(aa) cooperate with local and foreign institutions, and encourage and facilitate a better participation in programmes, scholarships, and the international exchange of students and personnel, particularly in the institutions and programmes of the European Union;

(ab) prepare any required guidelines, statistics, or strategy as may be required by the Minister for the better implementation of education policy and provision of educational services;

(ac) generally give advice to the Minister on any matter relating to education and perform any other function that the Minister may from time to time assign to the Division;

(ad) implement any matter required for the proper execution of any provision of this Act; and

(ae) carry out any other function as may be necessary

for the attainment of the objectives and the fulfilment of the duties pertaining to the State as provided for by this Act.

Appointment of Directors General.

13. The Directors General of the departments of Education shall be appointed by the Prime Minister for a period of three (3) years under such terms and conditions as may be stated in the letter of appointment. The appointment of a Director General shall be made after a call for which there may apply such persons who have the qualifications, the educational experience and the qualities necessary for the management of these departments. When a term of office expires, such person may be reappointed for a further period or periods.

Right to information.

Cap. 586.

14. (1) Without prejudice to the generality of the power conferred in this article and the data protection provisions established by virtue of the Data Protection Act and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, the Division of Education may request, collect and verify any information, data and statistics, as may be required for the performance of its functions.

(2) The Division of Education shall have access to all information which schools, State and non-State, may possess, and shall be entitled to request and obtain all data they may require to perform its functions from students, parents, personnel, and examination bodies, and this data shall be given to the Division within a reasonable time from the date of request.

Cap. 586.

(3) Without prejudice to the generality of the power conferred in this article and the data protection provisions established by virtue of the Data Protection Act and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, the Division shall have access to other statistics and data of personal, economic and social nature as required in order that it may perform its functions according to this Act.

Education officers and other officers.

15. The Division of Education shall have such education officers and other officers within each of its departments as are necessary for the execution of the functions of the Division and for the general implementation of this Act or of any regulations made thereunder.

Department responsible for the regulation of pre-compulsory and compulsory education.

16. (1) There shall be a Department which shall be responsible to regulate pre-compulsory and compulsory education through establishing, monitoring and assuring standards and quality in educational services and programmes provided by schools and childcare centres, whether State or not, as provided for in this Act and any regulations made thereunder. In particular this Department shall

carry out the functions referred to in article 12(2)(a) to (p).

(2) This Department shall be independent and autonomous in its operation.

(3) The Department may, for the purposes of giving practical guidance on matters relating to inspections under article 17 and investigations under article 18 and to lay out practices with respect to those matters, from time to time prepare, approve and issue such codes of practice as in its opinion are suitable for those purposes.

Power of entry and of inspection.

17. (1) Duly authorised officers of the Division shall have the power to enter at any time, without prior notice, in any school, childcare centre, class or place of instruction, and inspect and report on the teaching and learning process, educational leadership, learning and assessment programmes, student well-being, the physical environment, and the observance of the conditions, standards, policies and regulations established and made by virtue of this Act.

(2) Schools, childcare centres and home educators shall provide any information and access requested by these officers as they may deem necessary for the implementation of the functions of the Division.

Investigation of complaint.

18. Without prejudice to the provisions of this Act, the Division may investigate a complaint if it deems it appropriate to do so, in accordance with prescribed regulations.

Licence holder to provide information.

19. (1) If the Division so requests for the purposes of an investigation of the complaint, the licence holder to which the complaint relates must provide it with -

(a) such information held by the licence holder as may be specified or described in the Division's request, and

(b) such other information held by the licence holder as the Division may deem to be relevant to the investigation.

(2) In carrying out any investigation, the Division shall establish its own procedure and licence holders shall be bound to cooperate in any such investigation.

Action plan.

20. Where the Division has found the licence holder to be in breach of any regulations or has been issued with recommendations as a result of any investigation and, or as a result of a quality assurance process, the licence holder must prepare an action plan which shall include a written statement of the action which it proposes to take in the light of the report, and the period within which it proposes to take that action. Such action plan is to be approved by the Division, which shall ensure that the action plan is implemented within the established period. The Division shall have the power to take any reasonable action it deems fit in cases of failure to implement such action plan.

PART III

Licences to establish Schools, Childcare Centres and to provide home education

Licences to establish schools, childcare centres and to provide home education.

21. (1) It shall not be lawful to establish and, or run a school, a childcare centre or to provide home education without a valid licence issued by the Division in accordance with the following provisions:

Provided that a licence under this Part shall not be required in the each of the following cases:

(a) by a provider offering further or higher education as defined in the Further and Higher Education Act, 2019; or

Bill No. 93 of 2019.

(b) where a licence is to be obtained from any other body so authorised by law.

Applications for a school licence, a childcare centre and to provide home education.

22. (1) Any person shall have the right to apply to the Division for the grant of a licence to establish and run a school, a childcare centre or to provide home education.

(2) The Division, acting upon the recommendation of the Department referred to in article 16, may grant the licence mentioned in sub-article (1) where the school, childcare centre and home education conforms with the prescribed conditions and the Division deems the grant of the licence to be in the public interest:

Provided that a licence shall be granted if the Government is bound to do so by an international agreement and the school conforms with the national minimum conditions:

Provided further that where an applicant for a licence is already licensed or otherwise legally established in a Member State, the Division, in compliance with Directive 2006/123 of the European Parliament and of the Council of 12 December, 2006 on services in the internal market, shall not duplicate requirements or controls which are equivalent or essentially comparable as regards their purpose to which the applicant may already be subject to in another Member State.

Granting of a licence is a concession.

23. The granting of a licence is a concession and a revocable privilege, and no holder thereof shall be deemed to have acquired any vested rights therein or thereunder. The burden of proving the licence holder's qualifications to hold a licence shall rest at all times on the licence holder. In this article, "licence" includes and applies to any licence and authorisation, however designated, issued by the Division.

Temporary licence.

24. (1) Where it deems it to be in the public interest, the Division may grant a temporary licence to a school or a childcare centre for a period of up to one year. Such temporary licence shall be subject to specific conditions which are required to be fulfilled until

the expiration of such period in order to lead to eligibility for an application for a licence under article 21.

(2) A temporary licence may only be further extended for not more than three (3) consecutive years.

(3) Where the school or the childcare centre is granted a temporary licence for the third year, the licence holder shall communicate immediately this information to the parents and, or students, as the case may be, and staff members.

Submission of copy of the statute.

25. (1) Where the applicant for a licence to establish a school or a childcare centre is a body corporate, a copy of the statute is to be submitted with the application for a licence.

(2) The applicant for a licence shall indicate in the application the particulars of the designated person and whether the licence is to be granted in the name of the designated person in his personal capacity or in representation of a body corporate, institution or religious order:

Provided that the licence for State schools shall be granted in the name of the Director General responsible for such.

(3) The applicant for a licence shall also provide the Division with all documentation and information required by the Division in order to consider the application.

Licence in the name of the designated person.

26. (1) In the case of a school or a childcare centre, any licence granted under the provisions of this Part shall be in the name of the designated person in his personal capacity or in representation of a body corporate, institution or religious order, as the case may be.

(2) The designated person in whose name a licence is granted shall be personally responsible to ensure that all the obligations attached to that licence are observed at all times whether that licence has been granted in his name personally or in representation of a body corporate, institution or religious order.

(3) The licence holder in whose name a licence is issued to provide home education, as defined in article 2, shall be personally responsible to ensure that all the obligations attached to that licence are observed at all times.

Decisions concerning applications for a licence.

27. The decision of the Division to grant or to refuse an application for a licence shall be notified in writing to the applicant within three (3) months from the date the application was received by the responsible department. A decision to refuse an application for a licence shall be accompanied with the reasons for refusal. Failure to notify the applicant about the decision regarding an application for a licence within the time established in this article shall, for reasons of public interest, be deemed to be a refusal of the licence applied for:

Provided that an application for a licence shall not be deemed to have been filed by an applicant unless it is duly filled in and accompanied with all required information and documentation:

Provided further that an application shall not be deemed to have been submitted by the Catholic Church if such application is not signed by the Bishops in Ordinary of these Islands or authorised by them in writing.

Change in the designated person.

28. (1) Where the designated person in whose name a licence is issued in accordance with article 26(1) ceases to be the designated person for any reason whatsoever, the following provisions of this sub-article shall apply:

(a) where the licence is in the name of that designated person in his personal capacity, a fresh application for a licence shall be made;

(b) where the licence is in the name of that designated person in representation of a body of persons, that body shall without delay give notice in writing to the Division of the change in that office and submit the particulars of the person who has assumed that office and thereafter the licence shall be deemed to be in the name of that person in representation of that body of persons.

(2) Where no application as required by sub-article (1)(a) or no notice as required by sub-article (1)(b) is made or given within three (3) months from the date on which the designated person in whose name the licence was issued ceases to hold that office, that licence shall be deemed to have been cancelled on the date of the lapse of that period of three (3) months.

Suspension and withdrawal of a school licence.

29. (1) The Division, acting upon the recommendation of the Department referred to in article 16, may suspend a licence issued in accordance with article 22(2) or a temporary licence issued in accordance with article 24(1) if the school does not conform with the national minimum conditions or any condition imposed by the Department, or is otherwise in breach of applicable legislation.

(2) Where the reason of the suspension is not remedied by the licence holder within a period of three (3) months from the date of suspension of the licence, the Division may proceed to withdraw the licence.

Administrative review.

30. (1) When an application for a school licence has been refused or is deemed to be refused in accordance with article 27 or where a school licence is suspended or cancelled, the applicant or licence holder may appeal to the Administrative Review Tribunal in accordance with the provisions of the Administrative Justice Act and any applicable regulations made thereunder.

Cap. 490.

(2) An appeal under sub-article (1) shall be made in writing within two (2) months from the date on which the decision refusing the application or the decision suspending or withdrawing the licence was notified to the applicant or from the date of the lapse of the period of three (3) months mentioned in article 29(2), as the case may be.

(3) Notwithstanding that an appeal would have been lodged in accordance with this article, a licence shall be considered as having been suspended or cancelled, as the case may be, pending the final decision of any appeal that may be made from the decision of the Administrative Review Tribunal in accordance with the provisions of the Administrative Justice Act or any applicable regulations made thereunder.

Cap. 490.

Register of licences.

31. The Division shall keep a register containing the details of every school, childcare centres and home educators with a licence issued under this Act.

PART IV

State Schools

State Schools and Colleges.

32. (1) With the aim of ensuring the existence of a system of schools to secure the objectives set out in article 4, the Minister shall establish such State Schools in Malta and Gozo as the Minister may deem necessary from time to time. Each State School shall be under the responsibility, guidance and administration of a Head of School.

(2) With the aim of enhancing co-operation and networking among State schools, the Minister may also establish such State Colleges in Malta and Gozo as the Minister may deem necessary from time to time. State Colleges shall be composed of those State Schools as the Minister may direct from time to time. Every State College shall have a Head of College Network who shall be responsible for the co-operation and networking among State Schools forming part of the College.

(3) With the aim of offering specialisation in particular subjects, the Minister may also establish such cluster of colleges as may be deemed necessary from time to time. The cluster of colleges shall be composed of a group of colleges as the Minister may direct from time to time.

(4) The legal and judicial representation of State schools shall vest in the Director General responsible for State schools, provided that such Director General may appoint any one or more of the officers or employees, to appear on his behalf and in his name in any judicial proceedings and on any deed, contract, instrument or other document of whatsoever nature.

Autonomy of schools.

33. (1) The Minister and the Division of Education shall promote the application of the principle of subsidiarity and self-governance in the management and administration of State Schools, within a framework of decentralisation and autonomy of the educational operation and services provided by schools according to the priorities, targets and national strategies adopted by the Government.

(2) Nothing in this Act shall be construed as preventing the Minister, for the purpose of implementing the principle of subsidiarity and self-governance in the management and administration of State Schools, from delegating or assigning any of the functions of the Division of Education to the Schools or Colleges established under this Part.

School development plan.

34. (1) The school development plan shall be the main educational policy and implementation tool and shall, in particular, aim to facilitate the implementation and pursuance of the learning outcomes' framework in view of the differing contexts of every school and the particular needs of its students.

(2) The school development plan shall be for a period established by the Division and it shall be prepared by the Head of School through a 'whole school' approach.

(3) The Head of School shall review the implementation of the school development plan on an annual basis.

College development plan.

35. (1) The college development plan shall seek to secure synergy among the schools forming part of the College and that national policies on matters of education are followed and implemented. The college development plan is to include a business plan for the different schools forming part of the College based on the ethos, challenges and necessities of each school.

(2) The college development plan shall be for a three (3) year period. It shall be prepared by the Head of College Network together with the Heads of the Schools forming part of the College.

(3) The Head of College Network, together with the Heads of Schools, shall review the implementation of the college development plan on an annual basis.

Functions of State Schools and Colleges.

36. (1) In addition to the duties of schools referred to in article 9, it shall be the function of each State School:

(a) to identify and equitably provide learning and assisted programmes for all students;

(b) to ensure that the national policy on inclusive education is being applied and that the resources, tools and facilities required are available;

(c) to ensure the prompt and effective implementation of such other functions as may be assigned by the Minister from time to time;

(d) to abide by the financial and procurement regulations and procedures; and

(e) to maximise school and human resources.

(2) It shall be the function of each State College:

(a) to ensure networking and coordination among the schools forming part of the College;

(b) to facilitate the implementation of the duties of the State set out in article 4;

(c) to ensure collaboration with State Schools pertaining to other Colleges;

(d) to establish association agreements with other institutions and organisations which are conducive to learning in its broadest sense and which may assist to equip students with the knowledge, skills, competencies and values required for active citizenship, employability and entrepreneurship; and

(e) to ensure the prompt and effective implementation of such other function as may be assigned by the Minister from time to time.

Heads of School and Head of College Network.

37. (1) Every State School shall have a Head of School who shall be responsible for decisions concerning educational matters within the school and report to the Head of College Network.

(2) Every State College shall have a Head of College Network who shall be responsible to the Director General who is assigned the general responsibility for State Schools as regards the performance of his functions.

Core role of the Head of School.

38. It shall be the duty of every Head of School to ensure that the functions of the school as provided for in article 36(1) are being accomplished. The core role of the Head of School shall be to:

(a) promote, implement and pursue the mission of the school in providing a high quality inclusive education for all students;

(b) provide strategic and instructional leadership and direction to school staff and the overall day-to-day management of the school;

(c) assume a leading role in organizing and

coordinating all activities related to curriculum delivery and development; and

(d) perform such other function as may be assigned by the Division from time to time.

Core role of the Head of College Network.

39. (1) There shall be an officer who shall be referred to as Head of College Network to carry out the functions set in this article.

(2) It shall be the duty of every officer described in sub-article (1) to ensure that the functions of the College as provided for in article 36(2) are being accomplished. The core role of the Head of College Network shall be to coordinate, facilitate and promote:

(a) cooperation and collaboration in all educational spheres among the schools within the College, thereby allowing synergy to take place;

(b) networking among all educators to share, improve and enhance good practices and thereby strengthen collegiality;

(c) opportunities for continued professional training and development of all staff; and

(d) outreach initiatives that make possible synergies with the community (social, civil, and economic).

Partnership with non-State Schools.

40. (1) State Schools shall seek to create partnerships with non-State colleges or schools in Malta and in other countries and any other entity and may conclude agreements of collaboration in favour of the education of students.

(2) Such partnership agreements shall provide for opportunities of collaboration, the use and sharing of resources, and exchanges of experience, good practice and educational programmes.

Use of school premises for learning, cultural or other activities.

41. (1) The Head of School may enter into agreements of a limited duration with third parties, for such consideration as he deems appropriate, for the use of the premises and facilities of State Schools, or part thereof, as learning centres, or centres for the pursuit of activities of physical exercise and sports education, or for cultural activities of arts, music and drama, or for such other similar activities in accordance with policies set out by the Division of Education:

Provided that:

(a) such activities shall not cause interference with teaching and education of the students of State Schools; and

(b) priority shall always be given to the use of State

Schools by the Government for such activities as the Government considers appropriate.

(2) The Head of School shall enter into such agreements as provided for in sub-article (1) according to policies established by that department responsible for school premises.

(3) Where authorisation is granted as provided in sub-article (2), the provisions of the Government Lands Act shall not apply:

Cap. 573.

Provided that the agreement shall not confer any real rights to third parties.

(4) Any income obtained from an agreement as is referred to in sub-article (1) shall belong to the school.

(5) The Minister may give such directives or make such regulations as he considers appropriate in connection with the use of the premises and facilities of State Schools by third parties, including the conditions under which rights of use may be granted, and the use which is to be made of any proceeds generated by a school from the agreements referred to in sub-article (1).

School Council and Students' Council.

42. Every State School, whether it is a school forming part of a College or not, shall have a School Council which shall be composed of parents and educators, and a Students' Council which shall be composed and selected and which shall have the functions, duties, powers and procedures such as the Minister may from time to time establish by means of regulations.

Good behaviour and discipline in schools.

43. (1) Subject to the provisions of this Act, the Head of School and the teaching and non-teaching staff of a school, including whosoever directly or indirectly is involved in the educational process of students in the school, shall be responsible to ensure the maintenance of good behaviour by the students and for the keeping of positive discipline in the school.

(2) The Minister may, from time to time, make such regulations or issue such policies or directives as he considers appropriate, including a code of discipline, to ensure that good behaviour and discipline is maintained in State Schools. Such regulations, policies or directives may also make provision for the suspension and the exclusion of students from the class and the school as part of a process of discipline and reintegration, for the means of making an appeal and for the reconsideration of decisions on discipline taken by competent authorities, for the implementation by schools of the code of discipline, and for any other matter ancillary thereto as may be required.

(3) Subject to the provisions of this Act or of any other law, the regulations and the code of discipline mentioned in sub-article (2) shall include provisions about the conduct and the discipline required

from educators, other school staff, parents and visitors to a school.

(4) In line with applicable policies and codes of behaviour a student may be kept in detention.

(5) Where a student's behaviour is violent or aggressive and endangers his own safety or that of another student or a person working at the school, a teacher or other person working in the school, the school may take such measures which are reasonable, proportionate and necessary in the circumstances to avert such danger in accordance with applicable policies and codes of behaviour. The Division shall endeavour to provide the school staff with the relevant training for this purpose.

Equitable education.

44. (1) The Minister may make regulations, issue policies and give directives, as he deems appropriate, to reach out to all children entitled to attend school, including for the establishment of alternative learning programmes, educational spaces, nurture groups and learning support zones in the school and of learning support centres and resource centres outside the school, for the transfer of students from the class and the school to these zones and centres, and for any other matter ancillary thereto as may be required.

(2) The Minister may make regulations, issue policies and give directives as may in his opinion be required to provide students with additional support needs, including the multi-disciplinary assessment of their condition, the process of statementing, the formulating and the application of an individual educational programme, accessible assessment, tests and examinations of concerned students, the programmes in resource centres, the application of therapies and, or the giving of medicines as prescribed by competent professional persons according to any law in force to students while at a school or centre, means for the reconsideration of and appeals from decisions on an application for the statementing of a student, and on any other matter ancillary thereto as may be required.

Teaching of the catholic religion and of philosophy of life and ethics in State schools.

45. (1) The State shall make provision for the education and teaching of the catholic religion in State schools for those students whose parents have chosen to instruct the children in such religion and to establish the curriculum for the education and teaching of this religion in those schools according to the dispositions in this regard of the Bishops in Ordinary of these Islands.

(2) The State shall make provision for the education and teaching of philosophy of life and ethics for those students whose parents have chosen not to instruct their children in the catholic religion.

PART V

Home Education

Home education.

46. It shall be lawful for a parent of a minor of compulsory school age to apply to the Division of Education to provide home education to the minor:

Provided that the application for home education is not made on racist or similar grounds, or for reasons which the Division does not consider to be proper taking into account the circumstances; and in any of the above cases, home education is considered to be in the best interest of the minor taking into account the circumstances and situation of the minor and his family.

Authorisation for home education.

47. (1) Where the Division is of the opinion that the necessary conditions for the provision of home education to a minor have been satisfied, it shall authorise the parent of the minor to provide home education to the minor at the parent's expense and subject to the following conditions -

(a) the minor must have a social experience equivalent to that provided in schools;

(b) the minor is afforded the same experience and facilities as those in schools;

(c) minors must follow an accredited programme as approved by the Division and such conditions set by the Division as it may deem appropriate in the best interests of the minor.

(2) A parent who causes his minor child to follow a home education programme in accordance with all the conditions imposed by the Division shall be deemed to have satisfied his obligations under article 6.

Power to make regulations relating to home education.

48. The Minister may, after consultation with the Division, make regulations:

(a) to provide generally for the regulation of home education;

(b) to make provisions for the granting of authorisation to provide home education programmes;

(c) to establish criteria on the qualification and authorisation of home educators and for the withdrawal of such authorisation;

(d) for the accreditation of home education programmes;

(e) to establish penalties for breach of the provisions of this Part or any regulations made in terms of this article;

(f) to establish for fees to be paid by applicants in respect of any applications made under this Part or any regulations made in terms of this article;

(g) for any incidental and supplementary matter which the Minister considers expedient to provide for, for the effective implementation of this Part; and

(h) to provide for any matter which is not inconsistent with the provisions of this Act and to give better effect to any of such provisions.

PART VI

Educational Entities

Establishment of entities.

49. Without prejudice to the provisions of this Act or of any other law, the Prime Minister may by Order in the Gazette establish other entities, including those agencies, divisions, directorates, departments or other educational institutions as he may deem necessary for the better quality and provision of education and training services in the country, and the Prime Minister may also by an Order in the Gazette constitute any entity established under this Act as a body corporate with its own juridical and distinct personality, and the Prime Minister shall in such a case, by means of regulations, provide for any matter that may be necessary for the effective management of the entity mentioned in the relative Order.

Staff appointments.

50. (1) Subject to the provisions of the Constitution and of any other enactment applicable hereto, including this Act, any entity, acting with the concurrence of the Minister, may appoint and employ such officials and other employees which may from time to time be required for the due and efficient performance of its functions.

(2) Such appointment and employment of the said officials and employees shall be effected with such remuneration and upon such terms and conditions as the entity may, in concurrence with the Minister, from time to time, determine.

Status of public officers detailed for duty with an entity.

51. (1) The Prime Minister may, at the request of any entity made with the concurrence of the Minister, from time to time direct that any public officer be detailed for duty with an entity in such capacity and with effect from such date and for such duration as may be specified in the Prime Minister's direction.

(2) The period during which an order, as herebefore mentioned, shall apply in regard of an officer specified therein, unless the officer retires from public service or otherwise does not remain in office as from an earlier date, shall be such as may be specified in the order, unless such order is previously revoked by the Prime Minister.

(3) Where any officer is detailed for duty with an entity

according to the provisions of this article, such officer shall, during the time in which such direction has effect in relation to him, be under the administrative authority and control of the entity, but he shall for other intents and purposes remain and be considered and treated as a public officer.

(4) Without prejudice to the generality of the foregoing, an officer detailed for duty as aforesaid -

(a) shall not during the time in respect of which he is so detailed -

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at a date on which he is so detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the entity; and

(b) shall be entitled to have his service with the entity considered as service with the Government for the purposes of any pension, gratuity, or benefit under the Pensions Ordinance and the Widows' and Orphans' Pensions Act and of any other right or privilege to which he would be entitled, and liable to any liability to which he would be liable, but for the fact of his being detailed for duty with an entity.

Cap. 93.
Cap. 58.

(5) Where an application is made as provided in sub-article (4)(a)(i), the same consideration shall be given thereto as if the applicant had not been detailed for service with the entity.

(6) The entity shall pay to the Government, where applicable, such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the entity as aforesaid during the period in which he is so detailed.

Offer of permanent employment to public officers detailed for duty with the entities.

52. (1) An entity may, with the approval of the Prime Minister, offer to any officer detailed for duty with the said entity under the provisions of article 51 permanent employment with the entity at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

(2) The terms and conditions comprised in any offer made as

aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister, offer substantially equivalent or greater benefits.

(3) Every officer who accepts permanent employment with the entity, offered to him under the provisions of sub-article (1), shall for all purposes other than those of the Pensions Ordinance and of the Widows' and Orphans' Pensions Act, be deemed to have ceased to be in service with the Government and to have entered into service with the entity on the date of his acceptance, and for the purposes of the said Ordinance and of the said Act, so far as applicable to him, service with the entity shall be deemed to be service with the Government within the meanings thereof respectively.

Cap. 93.
Cap. 58.

(4) Every such officer as aforesaid who, immediately before accepting permanent employment with the entity, was entitled to benefit under the Widows' and Orphans' Pensions Act, shall continue to be so entitled to benefit thereunder to all intents as if his service with the entity were service with the Government.

Cap. 58.

(5) The entity shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer who has accepted permanent employment with the entity as aforesaid during the period commencing on the date of such officer's acceptance.

(6) For the purpose of the Pensions Ordinance, the pensionable emoluments of such public officer on retirement shall be deemed to be the pensionable emoluments payable to an officer in Government service in a grade and at an incremental level corresponding to the post and incremental level at which the officer retires from the entity.

Cap. 93.

(7) (a) For the purposes of this article, posts and salary grades with the entity shall be classified in the most nearly corresponding grades and incremental levels in the service under the Government of Malta by reference to job description, skills, responsibilities and other analogous factors.

(i) The classification referred to in paragraph (a) shall be carried out by a Board composed of a Chairperson appointed by the Minister responsible for finance and two other members, one appointed by the Minister responsible centrally for personnel policies in the public service and one appointed by the entity concerned. The classification shall be subject to the final approval of the Minister responsible for finance.

(ii) Such classification shall take place within three (3) months of any adjustment of salaries of employees in Government service and, or of employees of an entity.

(b) No post shall be classified in a grade higher than that of a Grade 3 in the service of the Government or such other grade that the Minister responsible for finance may from time to time by notice in the Gazette determine.

(c) Without prejudice to the provisions of article 113 of the Constitution, no person may, following a classification as aforesaid, be entitled to rights under the said Pensions Ordinance less favourable than those to which he would have been entitled prior to such classification.

Cap. 93.

Financial provisions.

53. (1) The entity may levy all fees, rates and other payments prescribed in its protocols or deemed to be prescribed by or under this Act and, or regulations thereunder, or any other law related to the powers and functions of the entity.

(2) The entity shall be paid by Government out of the Consolidated Fund such sums as Parliament may from time to time authorise to be appropriated to meet the costs of specified works to be continued and for the day to day running of the entity.

Estimates of entity.

54. (1) The entity shall cause to be prepared in every financial year, and shall not later than six (6) weeks after the end of each such year adopt, estimates of the income and expenditure of the entity for the next following financial year.

(2) In the preparation of such estimates the entity shall take account of any funds and other moneys that may be due to be paid to it out of the Consolidated Fund during the relevant financial year, whether by virtue of this Act or of an Appropriation Act or of any other law; and the entity shall so prepare the said estimates as to ensure that the total revenues of the entity are at least sufficient to meet all sums properly chargeable to its revenue account, including, but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form and shall contain such information and such comparisons with previous years as the Minister responsible for finance may direct.

(4) A copy of the estimates shall, upon their adoption by the entity, be sent forthwith by the entity to the Minister and to the Minister responsible for finance.

(5) The Minister shall, at the earliest opportunity and not later than six (6) weeks after he has received a copy of the estimates from the entity (or if at any time during that period the House is not in

session within six (6) weeks from the beginning of the next following session), cause such estimates to be laid before the House together with a motion that the House approves the said estimates.

Accounts and audit.

55. (1) The entity shall cause to be kept proper books of account and other records in respect of the entity's operations and shall cause to be prepared a statement of accounts in respect of each financial year according to set accounting standards.

(2) The accounts of the entity shall be audited by an auditor or auditors to be appointed by it and approved by the Minister, after consultation with the Minister responsible for finance:

Provided that the Minister responsible for finance may, after consultation with the Minister, require the books and accounts of the entity to be audited or examined by the Auditor General.

Transmission of financial statements to Minister.

56. (1) Not later than three (3) months following the end of each financial year, the entity shall cause a copy of its financial statements duly audited to be transmitted to the Minister and to the Minister responsible for finance together with a copy of any report made by the auditor or auditors on these statements or on the accounts of the entity.

(2) The Minister shall, as soon as practicable, cause a copy of such statements and reports to be laid on the Table of the House of Representatives.

Deposit of revenues and payments by the entity.

57. (1) All monies received by the entity shall be paid into a bank or banks appointed as bankers of the entity by a resolution of the entity. Such monies shall, as far as practicable, be paid into any such banks from day to day, except such sum as the entity may authorise to be retained to meet petty disbursements and immediate cash payments.

(2) All payments out of the funds of the entity, other than petty disbursements not exceeding a sum to be fixed by the entity, shall be made by such officer or officers of the entity as it shall appoint or designate for that purpose.

(3) Cheques against and withdrawals from any bank account of the entity shall be signed by such officer of the entity as may be appointed or designated by the entity for that purpose and shall be countersigned by the Chairperson, or such other member or officer of the entity as may be authorised by the entity for that purpose.

(4) The entity shall also make provision with respect to:

(a) the manner in which, and the officer or officers by whom, payments are to be authorised or approved;

(b) the title of any account held with the bank or

banks into which the monies of the entity are to be paid, and the transfer of funds from one account to the other;

(c) the method to be adopted in making payments out of funds of the entity; and

(d) generally with respect to any matter which is relevant to the proper keeping and control of the accounts and books, and the control of the finance, of the entity.

PART VII

Offences and Penalties

Employment of minor.

58. (1) No person may employ a minor of compulsory school age or otherwise bound to regularly attend school under the provisions of this Act without the written permission of the Division of Education.

(2) The Division may give its permission under sub-article (1) when, having made the necessary investigations, it is of the opinion that there are sufficient reasons to justify the exemption provided that the employment of the minor would not be of harm to the health or normal development of that minor.

(3) When giving its permission in accordance with sub-article (2), the Division may impose such conditions requiring the minor to attend such alternative educational or training programmes as may be prescribed, and any such permission shall be considered immediately withdrawn if any of the conditions imposed in such permission are not observed.

(4) The Division referred to in this article may approve work experience and training programmes which, when so approved, shall not be deemed to constitute employment for the purposes of this article.

Offences committed by parents.

59. (1) Any parent of a minor who -

(a) fails to register that minor in a State school or in a licensed school under this Act for the first scholastic year starting when he is of compulsory school age or fails to ensure that the minor is so registered at all times for every scholastic year during the whole period that the minor is of compulsory school age or fails to cause that minor to continue to be so registered up to the end of the scholastic year during which the minor ceases to be of compulsory school age or up to the end of such further period as the Minister may by regulations prescribe; or

(b) fails to ensure, without a good and sufficient cause, that the minor attends school regularly on each

scholastic day during such period that the minor is of compulsory school age and up to the end of the scholastic year during which the minor ceases to be of compulsory school age and up to the end of such further period as the Minister may by regulations prescribe; or

(c) fails to abide by a decision of the Board,

shall be guilty of an offence and shall, on conviction, be liable to the punishments established for contraventions and to a fine (*multa*) not exceeding one hundred euro (€100) for each day during which the offence continues in the case of a continuing offence:

Provided that no criminal proceedings for an offence under paragraph (b) shall be taken unless the parent, within three (3) days from the date he receives a notice from the Division of Education requesting him to explain the absence of the minor from school, fails to give a good and sufficient explanation.

(2) Any person who after being summoned to appear before the Commissioner for Justice fails, without reasonable justification, to do so on any occasion when he is to so appear, or who fails without reasonable justification to comply with an order issued to him by the Commissioner for Justice or by the Board shall be guilty of an offence against this Act and shall be liable on conviction by the Court of Magistrates to a fine (*multa*) of between one hundred euro (€100) and five hundred euro (€500) or to imprisonment for a period of three (3) months or to both such fine and imprisonment:

Provided that the Court of Magistrates may also issue any other order it may deem appropriate.

Offences in relation to the employment of a minor.

60. Any person who contravenes the provisions of article 58 shall be guilty of an offence and shall, on conviction, be liable to the punishments established for contraventions and to a fine (*multa*) not exceeding one hundred euro (€100) for each day of employment of the minor.

Offences in relation to the running of a school without a licence.

61. (1) Any person who establishes or runs a school without a licence from the Division shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding one hundred euro (€100) for each day during which the offence continues in the case of a continuing offence.

(2) Any person in possession of a licence to establish and run a school and who does not ensure that he conforms at all times with all the national minimum conditions and any condition set up by the Division as may be applicable shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding one hundred euro (€100) for each day during which the offence continues in the case of a continuing offence.

(3) In the case of a second or subsequent conviction for an offence committed by any other person against the provisions of sub-article (1), the court may authorise the Division at its request, to take possession of the premises opened or kept as a school without a licence and this for such time as the court may deem necessary to prevent that person from committing a further offence against the provisions of that sub-article.

Offences in relation to provision of home education without a licence.

62. (1) Any person who provides home education without a licence from the Division shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding one hundred euro (€100) for each day during which the offence continues in the case of a continuing offence.

(2) Any person in possession of a licence to provide home education and who does not ensure conformity at all times with all the conditions imposed by the Division, as they may be applicable, shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding one hundred euro (€100) for each day during which the offence continues in the case of a continuing offence.

Threatening or causing bodily harm to any teacher, etc.

63. Whosoever shall threaten or cause a bodily harm to any educator, teacher or to any other official or employee of a school or to any other person involved in the organisation of an educational, cultural, social or sports activity for minors on the premises of a school or during such an activity or whenever such educator, official or employee is on duty outside school premises, or within the parameter of one kilometre from the school premises, shall, on conviction, be liable to the punishment established for the threat or bodily harm when not accompanied with the circumstances mentioned in article 95 of the Criminal Code increased by two degrees and to a fine (*multa*) of not less than eight hundred euro (€800) and not more than five thousand euro (€5,000).

Cap. 9.

PART VIII

Miscellaneous

Board for Educational Matters.

64. (1) There shall be a Board to be known as the Board for Educational Matters with the functions and duties set out in article 8 and any such further function as the Minister may assign to it by regulations made under this Act.

(2) The Board shall be appointed by the Minister and it shall be composed of five (5) members. The Board shall be chaired by a chairperson who, in the opinion of the Minister, has adequate knowledge on matters related to the education of children, and who shall be a person who has the necessary experience to be appointed a magistrate. The members of the Board shall include a parent representative, an educator, a professional from the psycho-social field and an expert in the specific field of inclusive education.

(3) The Board shall be constituted after the Minister would have sought the agreement of the Commission for the Rights of Persons with Disability as to ensuring that it includes the disability perspective required in terms of the United Nations Convention on the Rights of Persons with Disabilities.

(4) The members of the Board shall be appointed for three (3) years but when such term expires they may be reappointed.

(5) Any member of the Board may be removed from office by the Minister on grounds of inability to perform the functions of the office, professional misconduct or misbehaviour.

(6) Subject to the provisions of this Part and to any regulations made hereunder, the Board shall regulate its own procedure.

(7) The Board shall appoint experts as, in its opinion, may be required in particular cases.

(8) Any decision of the Board shall be taken by a majority of votes; however in the case of an equality of votes, the Chairperson shall have a casting vote.

(9) Decisions of the Board shall be in writing and shall be communicated to all involved parties.

(10) The Minister shall designate an officer of the Division to act as Secretary to the Board. The Secretary to the Board shall have no vote.

(11) There shall be no need of legal assistance to appear before the Board and the Board shall operate in such a manner as not to make legal assistance necessary.

(12) Where the Division or the parent of a minor feels aggrieved by the decision of the Board an appeal may be lodged to the Administrative Review Tribunal within twenty-one (21) days of the decision given by the Board in accordance with the provisions of the Administrative Justice Act and any applicable regulations made thereunder.

Cap. 490.

(13) Notwithstanding that an appeal has been instituted in accordance with the provisions of sub-article (12), the decision of the Board shall be executed pending the final decision of any appeal that may be made from the decision of the Administrative Review Tribunal.

Registrar of Examinations.

65. The Minister shall appoint a Registrar of Examinations who shall be responsible for the conduct of:

(a) any examinations on behalf of providers of

further or higher education as may be requested by such providers;

(b) examinations on behalf of local or foreign providers or examination bodies, as may be requested by them;

(c) examinations for induction into the service of the State, public corporations and commercial partnerships in which the State has effective control:

Provided that for the purposes of this paragraph, the State shall be deemed to have effective control of a commercial partnership where in that partnership more than fifty per cent (50%) of the capital or voting power is owned or controlled, directly or indirectly, by the State; and

(d) any other examinations as may be requested by the Minister.

Board of Public Local Examinations.

66. (1) There shall be a board, to be known as the Board of Public Local Examinations, hereinafter in this article referred to as "the Board", which shall be responsible for local public examinations and which shall be composed of five (5) members appointed by the Minister for a period of one (1) year, which may be renewed. The Registrar for Examinations shall be a non-voting member on the Board. The Minister shall appoint from amongst the members a chairperson. The Board of Public Local Examinations shall be governed by its own regulations.

(2) The Board shall, in particular:

(a) approve the departmental or government notice and the timetable of the examination before such publication;

(b) ensure that examinations are conducted in suitable premises and under the conditions established by the Board;

(c) deal with cases of breach of examination regulations and, or discipline;

(d) approve any access arrangements upon request of the person sitting for the examination;

(e) approve the Panel of Examiners in the case of written examinations and interviews;

(f) approve the administrators in the case of officially recognised online tests;

(g) scrutinise and sign examination results before their publication; and

(h) ensure that a fair and transparent process for a revision of paper is in place.

(3) The Board shall have the right to carry out any such inspections as it may deem fit during any stage of the examination process.

(4) The Board shall guide and provide support to the Registrar of Examinations during any stage of the examination process as deemed necessary.

Teaching in State schools and public providers of further or higher education.

67. (1) In State schools and public providers of further or higher education all teaching shall be given to Maltese citizens without any fee being charged. So as to ensure the full exercise of choice of school by parents, the State shall, through agreements of subsidy of non-State schools, when such are of a non profit-making character, in accordance with the availability of public funds, provide gradually for the same gratuity of teaching in such schools as is afforded to students in State schools.

(2) The Minister may by regulations prescribe the fees to be charged for examinations and special courses and the fees to be paid by students who are not Maltese citizens:

Provided that the Minister may exempt any person from the payment of those fees:

So however that, for the purposes of this sub-article, "special courses" means the following:

(a) part-time courses as specified by such regulations;

(b) courses that lead to a qualification classified at level 7 of the Malta Qualifications Framework or higher, except for those courses which persons are required to undertake for the purpose of obtaining a warrant to practise a profession in accordance with this Act or any other law; and

(c) foundation studies courses offered by the University.

(3) The Minister may by regulations determine rates of stipends payable to students who continue with their education after having completed their secondary education and may impose conditions for the payment of such stipends.

(4) The Minister may by regulations order that no fees shall be charged for the teaching of Maltese citizens in schools other than State schools and of a non profit-making character provided that in such a case the Minister shall before making such an order ensure that the schools to which the order applies shall be in a position to continue

to provide their services and shall supplement from public funds the financial means of those schools where, following investigations conducted together with those schools, such necessity arises.

Members of Divisions, etc., to be treated as public officers. Cap. 9.

68. For the purposes of the Criminal Code and of any provision relating to a criminal offence, the members of the Divisions, any Board, Directorate, College, Committee, Commission, Council and any officer or employee of any entity, shall be considered and be treated as public officers.

Directives and orders of the Minister.

69. (1) The Minister may, from time to time, give to any of the entities or to any of its officers or employees such directives and orders, not being inconsistent with the provisions of this Act, as the Minister may deem opportune with regard to the policy that has to be followed by them and to the operation and implementation of their functions, and on any other matter which appears to the Minister to be connected with education, and the entity, officer or employee concerned shall, as much as possible without delay, comply with and act in accordance with these directives and orders and shall conduct their functioning in accordance with these principles.

(2) Every entity shall give the Minister all required facilities so that he may obtain all information connected with the affairs and activities of any entity, officer or employee, and for this purpose they shall supply the Minister with returns, bills and any other information connected thereto, or with their functions, and give him all required facilities to audit all given information, in such manner and within such times as the Minister may reasonably require.

Power to make regulations.

70. The Minister may, subject to the provisions of this Act, make regulations to give effect to any of the provisions of this Act, or to regulate or otherwise provide for anything in respect of the functions and the activities which affect education according to this Act, and may in particular, but without prejudice to the generality of the aforesaid, make regulations for any of the following purposes:

(a) subject to the provisions of the Constitution or of any other law which may be applicable, to provide for any matter as may be necessary, including advertisements, the process of applications, selection boards, interviews, examinations, the assessment and evaluation of candidates, publication of results connected with the process of appointment or promotion or assignment of position to any officer and employee of an entity, and to acquire such necessary data for the records of the staff of the entities;

(b) to provide for the appointment, conditions of employment, duties and powers of teachers, officers and employees of the entities, and also of officers and employees of a Department or other agency who may have functions by any other law which regard the health and the treatment of children

and students, including provisions to empower each one of such officers to visit children at their homes and to examine them or to make other investigations:

Provided that in regulations relating to officers and employees of a Department or agency falling under the responsibility of another Minister, the Minister shall make such regulations with the approval of such other Minister;

(c) to better provide for the duties and functions of Heads, officers and employees and for the assignment of duties in a place or an entity according to their grade or position and for their transfer from one place to another within an entity;

(d) to require the parents to give to the Directors General, and to each Director, Head of College Network, Head of School, officer or employee of any entity, as duly authorised by the Directors General, or by a Head of College Network, such data about their children as is necessary for the due performance of the functions and the duties of each entity and its officers, including such data as may be specified in the regulations;

(e) to establish, communicate and require the execution of a National Curriculum Framework of studies subject to the specific religious nature of any school;

(f) to establish the qualifications of professional persons, officers and other employees of the entities and schools, the curricula, terms, school days and times, students' uniforms, parents' days, the conditions for the granting, refusal, suspension or revocation of a licence, the national minimum conditions of schools, and any other matter connected with or incidental to the implementation of the functions or to the operation and administration of entities and of State schools and to the discipline to be kept thereat;

(g) to establish any fee and payment which may be due by or under this Act, or for the services given in compliance with the provisions of this Act;

(h) to give direction for the better practice of any profession related to education, including initial training and continuous professional development of officials and employees of entities and to establish benchmarks, standards and assure quality, including internal quality assurance and external auditing processes, in institutions, schools and educational entities;

(i) to provide for any form or procedure which may be required or expedient and about which there would be no

specific procedure in this Act;

(j) to establish rules by means of which the Government may give effect to international conventions relating to education and which have already been ratified by the Government of Malta or in order to achieve compliance with every international obligation pertaining to the Government of Malta or with European Union Directives on any matter or field concerning education and training;

(k) to establish, unless otherwise provided in this Act or in any other law, a statute and rules to regulate the mission, scope, functions, powers and duties, financial accountability or otherwise, and any other procedure which has to be followed, performed and observed by any entity, Committee or Council established by or under this Act;

(l) to afford, subject also to the provisions of any other law, to a person aggrieved by the decision of any entity, or any body or organisation established under this Act, means and procedures either to lodge its complaints and aggravation about a decision or to contest or appeal from such a decision and to be so satisfied if its aggravation is upheld;

(m) to regulate the meetings of any entity, board, or committee, including procedures relating to a quorum, taking decisions by means of voting, keeping of minutes and any other matter ancillary thereto;

(n) to provide for any incidental or supplementary matter, including the power of entry and inspection of any premises or place where instruction and teaching take place or may take place in accordance with this Act, as the Minister may deem expedient for the enforcement of any provision of this Act and regulations made thereunder or to give greater effect thereto;

(o) to establish anything which is due to be or may be established under this Act and to provide for any other matter as may be deemed to be appropriate;

(p) to better regulate the operation and the provision of services in the Colleges and schools, including all matters concerning personnel, equipment, building, management, the use of school premises after normal school hours, partnerships between Colleges and State schools, and non-State schools and international exchanges, and participation in EU programmes; and

(q) to provide for any matter relating to the teaching of English as a foreign language.

Repeal of the Education Act. Cap. 327.

71. On the coming into force of this Act, the Minister responsible for education may, by notice or notices in the Gazette, establish the date of the repeal of the Education Act:

Provided that the Minister responsible for education may by such notice or notices in the Gazette establish different dates for the repeal of different provisions and for different purposes of the Education Act.

Cap. 327.

FIRST SCHEDULE

(Articles 2 and 11)

Departments of Education

Department for Curriculum, Lifelong Learning & Employability;

Department for Educational Services;

Strategy and Support Department.
