

THE EDUCATION ACT, 2011

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation
3. Application

PART II

INSTITUTIONAL FRAMEWORK

4. Functions of Minister
5. Determination of national policy on education
6. Establishment of regional education offices
7. Establishment of district education offices
8. Regional director of education
9. Functions of regional director of education
10. District director of education
11. Functions of district director of education

PART III

STRUCTURE AND CLASSIFICATION OF EDUCATIONAL
INSTITUTIONS

12. Stages of education system
13. Classification of educational institutions

PART IV

LEARNERS

14. Right to education
15. Free universal education
16. Determination of school going age
17. Compulsory school attendance
18. Prohibition of certain marriages
19. Prohibition of discrimination by educational institutions
20. Admission policy of public, aided or community educational institution
21. Application for enrolment at public, aided or community educational institution

22. Provision of education for poor and vulnerable children
23. Education for learners with special education needs
24. Monitoring and evaluation of special education institutions
25. Re-admission of learner to educational institutions
26. Code of conduct for learners
27. Disciplinary measures and procedures for public, aided and community educational institution
28. Prohibition of corporal punishment or degrading or inhuman treatment
29. Learners' representative council
30. Learner guidance and counselling services
31. Gender balance and equity in educational institutions and educational system
32. Provision for protection against gender-based violence
33. Personal health and nutrition of learners
34. Regulatory provisions on learners

PART V

PUBLIC EDUCATIONAL INSTITUTIONS

35. Establishment and maintenance of public educational institutions
36. Right of public educational institution on State property
37. Public educational institution on private property
38. Public-private partnerships
39. Accessibility of public educational institution
40. Division of public educational institution into two or more institutions
41. Merger of public educational institutions
42. Closure of public educational institution
43. Change of site of public educational institution
44. Establishment of education boards
45. Functions of education board
46. Parents-teachers' committees

PART VI

PRIVATE EDUCATIONAL INSTITUTIONS

47. Prohibition of operation of unregistered private educational institution
48. Establishment and maintenance of private educational institution
49. Board of management
50. Operation plan of private educational institution
51. Change in establishment or operational plan
52. Registrar of private educational institutions
53. Application for registration of private educational institution
54. Criteria for registration
55. Provisional certificate of registration
56. Certificate of registration
57. Display of certificate of registration
58. Premises for operation of private educational institution
59. Keeping of records
60. Annual fee
61. Renewal of registration
62. De-registration of private educational institution
63. Closure of private educational institution
64. Surrender of certificate of registration
65. Publication of list of registered private educational institutions
66. Register of private educational institutions
67. Grant of aided status to private educational institution
68. Service of notice
69. Appeals

PART VII

COMMUNITY EDUCATIONAL INSTITUTIONS

70. Definition
71. Prohibition of operation of unregistered community educational institution
72. Establishment and maintenance of community educational institution

73. Establishment of parents-teachers school committee
74. Registrar of community educational institutions
75. Application for registration of community educational institution
76. Criteria for application
77. Certificate of registration
78. Publication of list of registered community educational institution
79. Register of community educational institutions

PART VIII

AIDED EDUCATIONAL INSTITUTIONS

80. Prohibition of operation of aided institution without certificate of aided status
81. Application for aided status
82. Grant of aided status to educational institution
83. Board of management
84. Functions of board of management
85. Constitution of aided educational institution
86. Change of site of aided educational institution
87. Display of certificate of aided status
88. Suspension of operations of aided educational institution
89. Reduction or termination of aid
90. Closure of aided educational institution
91. Re-opening of closed aided educational institution
92. Publication of list of aided educational institution
93. Register of aided educational institutions
94. Appeal

PART IX

CURRICULUM, ASSESSMENT AND CERTIFICATION

95. National school curriculum
96. Core and other foundation subjects for each stage
97. Localised curriculum
98. Language of instruction for educational institution
99. Medium of instruction for deaf learners
100. School and college calendar at educational institutions

101. Curriculum for education institutions
102. Development and publication of textbooks and other educational materials
103. Proscription of certain publications
104. Provision of libraries in educational institutions
105. Teacher resource centres
106. Resources centres for special education needs
107. Determination of competence test and public examination
108. Regulations relating to curriculum, assessment and certification

PART X

ENFORCEMENT OF QUALITY AND STANDARDS IN EDUCATION

109. Quality and standards in education
110. Education standards officer
111. Functions of education standards officers
112. Powers of education standards officer
113. Obstruction of education standards officer
114. Special inspections
115. Annual report on quality and standards
116. Regulatory provisions on quality and standards in education

PART XI

FINANCING EDUCATION

117. Administration of public funds
118. Fundraising by education board or board of management
119. Tuition, boarding and other fees
120. Bursary, grant, scholarship and loan scheme for learners
121. General purpose fund
122. Land for educational purposes
123. Regulatory provisions on financing of education

PART XII

GENERAL PROVISIONS

124. Prohibition of operation of educational institution near bar
125. Advisory boards
126. Promotion of research
127. Dissolution of parents teachers' associations
128. Prohibition of publication or disclosure of information to unauthorised persons
129. Supremacy of Act
130. General offences and penalties
131. Offences by body corporate or unincorporate body
132. Regulations
133. Repeal of Caps. 134 and 135
134. Savings and transitional provisions

SCHEDULE

GOVERNMENT OF ZAMBIA

ACT

No. 23 of 2011

Date of Assent: 15th April, 2011

An Act to regulate the provision of accessible, equitable and qualitative education; provide for the establishment, regulation, organisation, governance, management and funding of educational institutions; provide for the establishment of education boards and for their functions; domesticate the Convention on the Rights of the Child in relation to education; repeal and replace the Education Act, 1966, and the African Education Act, 1951; and provide for matters connected with, or incidental to, the foregoing.

[18th April, 2011

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Education Act, 2011.
2. In this Act, unless the context otherwise requires—
 - “adult literacy education” means education provided to adult learners to enable them acquire reading, writing, numeracy and other skills for sustainable livelihood;
 - “aided educational institution” means an educational institution, other than a public educational institution established or maintained by any person, organisation, institution or community with assistance from the Ministry responsible for education;
 - “AIDS” means the Acquired Immune Deficiency Syndrome;
 - “attainment target” in relation to a basic or high school stage, means the knowledge, skills and understanding which learners, who are not in the formal education system of different abilities and maturities are expected to have by the end of that stage;
 - “basic education” means education from early childhood to grade nine;

Short title

Interpretation

Act No. 11
of 1999

- “basic school” means a school providing basic education;
- “board of management” means a board in which the management of an aided, a private or community educational institution is vested;
- “Bursaries Committee” means the Bursaries Committee continued under section *one hundred and twenty*;
- “child” means a person who has not attained the age of sixteen years;
- “child of school going age” means a child of an age within such limit as may be prescribed for purposes of compulsory school attendance;
- “code of conduct” means a code regulating the conduct of learners, developed pursuant to section *twenty-six*;
- “Code of Practice” means a code setting the standards of professional conduct and practice for teachers;
- “college of education” means an educational institution for the training of teachers, other than a university established or registered under the University Act, 1999;
- “college of open and distance education” means an educational institution providing self - instructional materials for open and distance learners;
- “community” means a geographically defined group of persons or sector of the public with a specific, ascertainable and common interest;
- “community educational institution” means an educational institution established by any person, organisation, institution or community to meet community needs and supported by the Ministry responsible for education;
- “continuing education” means education pursued by a person through an open learning class, self-study or any other distance education programme, who for any reason had no opportunity to continue with, or complete, formal education;
- “course of study” means the structure for academic qualifications such as a degree, diploma or certificate and the subjects of study in the course;
- “curriculum” means a specification of the desired knowledge, competencies, skills, values and attitudes which a learner is expected to acquire and how they are to be taught and learnt;

“Deputy Registrar” means the person designated as such under section *fifty-two*;

“distance education” means the provision of education in a form where a learner and a teacher are apart all or most of the time except for the time when the learner and teacher come together in residential school;

“district director of education” means a person appointed as such under section *ten*;

“early childhood care, development and education” means the care, development and education of a child from birth to the prescribed school entry age;

“education” means the full development of an individual’s judgment, personality, talents, mental and physical ability;

“education board” means an education board established in accordance with section *forty-four*;

“educational institution” means a school, college of education, distance education college, open learning class, centre of open learning or school for continuing education;

“education standards officer” means a person appointed as an education standards officer under section *one hundred and ten*;

“encroachment” means unlawful entry or possession of land which is acquired or reserved for education purposes, without right or permission;

“equity” means affording a fair chance in education to a child, in particular, a girl child, a child with special needs or any other vulnerable child or group of children;

“Examinations Council of Zambia” means the Examinations Council of Zambia established under the Examinations Council of Zambia Act;

Cap. 137

“gender-based violence” has the meaning assigned to it in the Anti-Gender-Based Violence Act, 2011;

Act No. 1 of 2011

“grade” means a part of an educational programme which a learner may complete in one school year;

“head of institution” includes a head teacher and a principal;

“head teacher” means the person appointed as head of a

basic school, high school or school for continuing education;

“high school” means a school providing high school education;

“high school education” means education covering a three year period from grades ten to twelve;

“hostel” means a building used for the residential accommodation of learners attending school or a college of education;

“HIV” means the Human Immuno-Deficiency Virus;

“learner” means a person who is enrolled and receiving education or a course of study at an educational institution;

“learner with special education needs” means a learner who—

(a) has physical, hearing, speech, visual or mental impairment;

(b) is significantly different from other learners mentally;

(c) has social, emotional or behavioural disorders as certified by a medical practitioner or prescribed officer; or

(d) is gifted and talented;

“local authority” means a city council, municipal council or district council established under the Local Government Act;

“local language” means any Zambian local language;

“national examination” means the assessment of a learner’s ability or competence in any subject or course of study at the national level;

“open education” means education that is flexible in terms of time and place for both the learner and teacher;

“parent” in relation to a child, includes a guardian or a person who has the actual custody of the child;

“Permanent Secretary” means the Permanent Secretary in the Ministry responsible for education;

“pre-school” means a school offering early childhood care, development and education;

“primary education” means education from grades one to seven;

“primary school” means a school at which primary education is provided;

“principal ” means the person appointed as a head of a college of education or any other college who, in the case of a college of education board is the college education board secretary;

“private educational institution” means an educational institution which is not a public or an aided educational institution;

“proprietor” means the owner of an educational institution or the person or body of persons in whom the ownership, custody or control of the educational institution is vested;

“public educational institution” means an educational institution administered or controlled by the Ministry or established and maintained using public funds;

“public funds” means money for the Government, or a public, community or aided educational institution, or any money donated to the Government or an aided, public or community educational institution;

“region” means an area into which the Republic is divided by virtue of this Act for the purpose of the administration of education;

“regional director of education” means a person appointed as regional director of education under section *eight*;

“Registrar of Deeds” means the person appointed as such under the Lands and Deeds Registry Act;

Cap. 185

“Registrar” means the person designated as such under section *fifty-two*;

“register” means in relation to—

(a) Part VI, the register of private educational institutions;

(b) Part VII, the register of community educational institutions; and

(c) Part VIII, the register of aided educational institutions;

“repealed Act” means the Education Act, 1966;

Cap. 134

“responsible authority ” means a head teacher, principal, manager, proprietor, board of management or an education board;

“school” includes an institution or class of not less than ten learners at which regular instruction is provided or from

which any regular instruction emanates, whether by distance learning or otherwise;

“school education” means early childhood, basic school and high school education comprising a range of full time instruction and activities;

“school for continuing education ”means a school offering open and distance learning to learners;

“school year” means the period of twelve months;

“secondary education” means education provided from grades eight to twelve;

“secondary school” means a school offering secondary education;

“skills training” includes vocational training, entrepreneurship and any practical subject for learners;

“special education institution” means an educational institution providing a course of instruction for learners with special education needs;

“study area” means a combination of subjects which addresses a common theme;

“syllabus” means a specification of what is to be taught and learnt and the order in which it is to be taught and learnt;

“teachers’ association” means a professional organisation of teachers registered as such and whose principal objective is the regulation of the collective professional relations of its members;

Cap. 269 “teachers’ union” means a union of teachers registered under the Industrial and Labour Relations Act;

“tertiary education” means education provided after secondary or high school;

“tertiary institution” means an institution providing tertiary education; and

“user fees” includes any board or accommodation fees.

Application **3.** This Act does not apply to—

Act No. 11
of 1999

(a) a university established or registered under the University Act, 1999;

(b) an institution that is established, administered, controlled, licensed or supervised by—

- (i) a person under the provisions of any other law; or
- (ii) any other Ministry other than the Ministry responsible for education; or
- (c) any other institution which provides education solely of a religious, social or recreational nature.

PART II

INSTITUTIONAL FRAMEWORK

- 4.** (1) Subject to the provisions of this Act, the Minister shall— Functions of Minister
- (a) promote the education of all Zambians and establish and develop educational institutions;
 - (b) direct, co-ordinate, supervise and control the education system and any related matters; and
 - (c) secure the effective co-operation of all public and private bodies concerned with education, in formulating and implementing the national policy on education in terms of this Act.

(2) The Minister may, for purposes of subsection (1), in consultation with such persons or consultative bodies as the Minister considers appropriate, formulate a development plan for education consistent with the national plan for economic and social development.

- 5.** (1) The Minister shall, with the approval of Cabinet, develop a national policy on education and shall, prior to the development of the policy, consult with any advisory body or organisation as the Minister considers appropriate for the purpose. Development of national policy on education

(2) The Minister shall, where a national policy on education is adopted by Cabinet publish the policy, by notice, in the *Gazette*.

- 6.** (1) The Minister may, by statutory instrument, in order to promote the efficient and effective management and decentralisation of the education system, divide the country into regions which are not necessarily coterminous with the provincial boundaries, and establish a regional education office for each region. Establishment of regional education offices

(2) A regional education office established pursuant to subsection (1) shall be responsible for the administration of education in the region as may be assigned to the regional education office by, or under, this Act or any other law.

- Establishment of district education offices
- 7.** (1) The Minister may, by statutory instrument, in order to promote the efficient and effective management and decentralisation of the education system, divide the country into districts which are not necessarily coterminous with the district boundaries, and establish a district education office for each district.
- (2) A district education office shall be responsible for the administration of education in the district as may be assigned to the district education office by, or under, this Act or any other law.
- Regional director of education
- 8.** The Teaching Service Commission shall appoint a regional director of education for each region established under section *six*.
- Functions of regional director of education
- 9.** A regional director of education shall—
- (a) administer the regional education office;
 - (b) co-ordinate, monitor and supervise the provision of education in the region;
 - (c) prepare and submit regional budgets, workplans and reports to the Permanent Secretary; and
 - (d) perform any other functions as may be provided for under this Act or any other law.
- District director of education
- 10.** The Teaching Service Commission shall appoint a district director of education for each district.
- Functions of district director of education
- 11.** A district director of education shall—
- (a) administer, manage and control the district education office;
 - (b) co-ordinate, monitor and supervise the provision of education in the district;
 - (c) consolidate and submit workplans and budgets to the regional director of education;
 - (d) prepare and submit workplans and reports of the district office to the regional director of education; and
 - (h) perform any other functions as may be provided for under this Act or any other law.
- PART III**
- STRUCTURE AND CLASSIFICATION OF EDUCATIONAL INSTITUTIONS**
- Stages of education system
- 12.** (1) The system of school education shall be organised into the following progressive stages:

- (a) early childhood care, development and education;
- (b) basic education;
- (c) high school education; and
- (d) tertiary education.

(2) Subject to the other provisions of this Act, an educational institution may establish and maintain open and distance learning, skills training and adult literacy education.

(3) Subject to subsection (4), an educational institution shall not offer more than one stage of education at any particular premises unless each stage has its own teaching staff, board of management and facility in accordance with the provisions of this Act.

(4) Notwithstanding subsection (3), an educational institution offering basic education may offer early childhood care, development and education.

13. (1) An educational institution established and maintained under this Act shall be classified under any of the following categories:

- (a) public educational institution;
- (b) private educational institution;
- (c) community educational institution; or
- (d) aided educational institution.

(2) The fundamental school system shall be organised into the following units:

- (a) early childhood care, development and education;
- (b) basic school;
- (c) school for continuing education;
- (d) high school; and
- (e) tertiary institution.

(3) A community, proprietor or organisation operating an aided or community educational institution may, subject to the approval of the Minister, make changes in the management structure of the aided or community educational institution for the benefit of the learners at the educational institution or adopt a management structure of a public educational institution.

Classification
of
educational
institutions

PART IV

LEARNERS

- Right to education
Cap. 1
- 14.** (1) Subject to the Constitution and the other provisions of this Act, a person has the right to—
- (a) early childhood care, development and education;
 - (b) basic education, including adult literacy education; and
 - (c) high school education.
- (2) The Government shall make general and vocational education progressively available and accessible to all persons.
- Free universal education
- 15.** A child has the right to free basic education.
- Determination of school-going age
- 16.** The Minister may, by statutory instrument, determine the school-going age of a child.
- Compulsory school attendance
- 17.** (1) Except as provided for in this Act or any other written law, a parent shall enroll a child who has attained the school-going age at an educational institution and shall ensure the child's attendance at the educational institutional.
- (2) Notwithstanding subsection (1), the Minister may, in consultation with the regional director of education, by notice in the *Gazette*—
- (a) on grounds of health or public interest, determine that during a specified period, compulsory school attendance shall not apply to—
 - (i) a child who resides in such a geographical area as may be specified in the notice; or
 - (ii) a child of an age group as may be specified in the notice; or
 - (b) exempt any person, entirely or partially, from compulsory school attendance if it is in the best interest of the person or in the public interest.
- (3) A board of management or an education board may, where a learner to whom subsection (1) applies is not enrolled at an educational institution, or where a learner who is enrolled at an educational institution, does not attend or fails to attend school without reasonable excuse —
- (a) appoint a committee at the educational institution to investigate the circumstances surrounding the learner's absence from the educational institution;

- (b) take appropriate measures to remedy the situation; or
 - (c) issue a written notice to the parent of the learner, requiring compliance with subsection (1) within the period specified in the notice.
- (4) A person who—
- (a) without reasonable excuse—
 - (i) fails to enrol a child of school-going age at an educational institution; or
 - (ii) prevents a learner from attending school or withdraws a learner from an educational institution;
 - (b) willfully fails or refuses to comply with a notice issued under paragraph (c) of subsection (3); or
 - (c) obstructs, assaults, resists or intimidates a committee appointed under paragraph (a) of subsection (3) in the carrying out of the member of staff's duties under this section;

commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

(5) An education board or board of management of an educational institution shall, where an investigation undertaken pursuant to paragraph (a) of subsection (1) reveals the commission of an offence or contravention of any of the provisions of this Act, report the matter to the police.

18. (1) Subject to the Constitution and any other written law, a learner who is a child shall not contract any form of marriage.

- (2) A person shall not—
- (a) marry or marry off a learner who is a child; or
 - (b) prevent or stop a learner who is a child from attending school for the purpose of marrying or marrying off the learner who is a child.
- (3) A person who contravenes this section commits an offence and is liable, upon conviction, to imprisonment for a period of not less than fifteen years and may be liable to imprisonment for life.

Prohibition of
certain
marriages
Cap. 1

- Prohibition of discrimination by educational institution
- 19.** An educational institution shall not discriminate against a learner in any manner.
- Admission policy of public, aided or community educational institution
- 20.** (1) An education board or a board of management shall develop an admission policy of the institution which shall contain such information as the Minister may prescribe.
- (2) An education board or board of management shall, where it develops an admission policy under subsection (1), publish it in a daily newspaper of general circulation or any other appropriate media in the area and make it available to the members of the public.
- (3) An education board or board of management may, with the approval of the Minister—
- (a) determine entrance requirements in respect of any education programmes;
 - (b) determine the number of learners who may be admitted for a particular education programme and the manner of selection of the learners; and
 - (c) determine the minimum requirements for admission to an educational institution.
- Application for enrollment at public, aided or community educational institution
- 21.** (1) A person or a parent of a child shall apply for the enrollment of that person or child at a public, aided or community educational institution to the head of institution in the prescribed manner and form.
- (2) An educational institution shall, in determining the placement of a learner with special education needs, take into account the best interest of the learner.
- Provision of education for poor and vulnerable children
- 22.** (1) The Minister shall ensure equal access to quality education to all learners including poor and vulnerable children.
- (2) The Minister shall, in consultation with the Ministers responsible for social welfare and local government and other stakeholders, establish a decentralised and comprehensive system of identifying poor and vulnerable children, assessing their needs and determining how best to meet their educational needs.
- (3) The head of a public, aided or community educational institution shall not refuse to admit an applicant to the public, aided or community educational institution on grounds that the applicant or the applicant's parent—

- (a) is unable to pay, or has not paid, the school fee determined by the educational institution;
 - (b) is unable to provide the applicant with the items of clothing or other basic necessities as determined by the head of institution;
 - (c) does not subscribe to the mission of the educational institution or its religious practices; or
 - (d) has refused to enter into a contract in terms of which the parent waives any claim for damages arising out of the education of the applicant.
- (4) The head of institution shall, notify the Minister, in writing, of any applicant whose application for admission to the educational institution is rejected on any of the grounds listed under subsection (3).
- (5) An education board and the board of management of an educational institution shall adopt a policy of positive and affirmative action in relation to poor and vulnerable children.

23. (1) The Minister shall, for purposes of ensuring equality of access to, participation and the benefit of educational institutions for learners with special education needs, promote interventions at all levels of the educational institutions.

Education
for learners
with special
education
needs

(2) Without prejudice to the generality of subsection (1), the Minister shall, in collaboration with the Minister responsible for health, establish a decentralised system for the identification, diagnosis and assessment for the placement, of learners with special education needs in educational institutions.

(3) An educational institution shall, in determining the placement of learners with special education needs, take into account the rights and wishes of the learner or the parent.

(4) An educational institution shall adopt a policy of positive and affirmative action in relation to learners with special education needs.

(5) A learner with special education needs shall, to the greatest extent possible, be integrated into mainstream educational institutions.

(6) A learner with an exceptional degree of special education needs may, where need is established, be transferred from an inclusive education institution to a special education institution or from a special education institution to an inclusive education institution.

(7) An education board or board of management may, in partnership with any private, religious, community or philanthropic organisation, provide support to meet—

- (a) the needs of learners with special education needs; and
- (b) outreach services for learners whose impairments prevent their normal attendance of school.

(8) The Minister shall ensure that educational institutions provide learners with special education needs with quality education in appropriately designed and well-resourced educational institutions, staffed by qualified and dedicated teachers.

Monitoring
and
evaluation of
special
education
institutions

24. The Minister shall ensure that the education of learners with special education needs in both inclusive and special education institutions is monitored and evaluated through—

- (a) the strengthening of the management and supervision system at all levels of the education system;
- (b) the establishment of an integrated information system at the management and supervision levels;
- (c) the inclusion of institutions for educating learners with special education needs in statistical reports of the Ministry;
- (d) the conduct of evaluative studies by the Ministry; and
- (e) generally, the inclusion of planning for special education provision in the mainstream strategic planning of the Ministry.

Re-
admission of
learner to
educational
institution

25. (1) A learner who leaves or is withdrawn from an educational institution may be re-admitted at the educational institution on such terms and conditions as the educational institution may determine.

(2) A learner who falls pregnant or impregnates a female learner while pursuing a course of study at an educational institution shall be re-admitted to the educational institution after delivery of the baby.

(3) The re-admission of a learner referred to in subsection (2) shall be on such terms and conditions as the Minister may, by statutory instrument, determine.

(4) A person who contravenes subsection (2) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

26. (1) An education board or a board of management shall, in consultation with the learners, teachers and parents at the educational institution, adopt a code of conduct for the learners.

Code of
conduct for
learners

(2) A code of conduct shall establish a disciplined and purposeful school or college environment and improve and maintain the quality of the learning and training process.

(3) The head of institution may, in consultation with the board of management at the educational institution, determine guidelines for consideration by the education board concerned in the adoption of a code of conduct.

(4) Nothing contained in this Act exempts a learner from the obligation to comply with the code of conduct of the educational institution attended by the learner.

(5) A code of conduct shall contain provisions of due process to safeguard the interests of a learner or any other party involved in any disciplinary proceeding.

27. A learner at a public, aided or community educational institution shall be subject to such disciplinary measures and procedures as the Minister may, by statutory instrument, prescribe.

Disciplinary
measures and
procedures for
public, aided
and
community
educational
institution

28. (1) A teacher, employee or other person at an educational institution shall not impose or administer corporal punishment or degrading or inhuman treatment on a learner or cause corporal punishment or degrading or inhuman treatment to be imposed or administered on a learner.

Prohibition
of corporal
punishment
or degrading
or inhuman
treatment

(2) A teacher, employee or other person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

29. (1) The Minister may, by statutory instrument, establish a learners' representative council for an educational institution.

Learners'
representative
council

(2) The statutory instrument referred to in subsection (1) may provide for the election, tenure, functions, privileges and conduct of the learners' representative council.

(3) The Minister may, by statutory instrument, exempt a special education institution from complying with subsection (1), where it is not practicable for a learners' representative council to be established at the special education institution.

- Learner guidance and counselling services
- 30.** Counselling and career guidance shall be an essential component of learner welfare at all levels of the education system and shall be part of the overall management and administration of educational institutions.
- Gender balance and equity in educational institutions and educational system
- 31.** (1) The Minister shall promote equity in access to education, participation in and successful completion of education at all levels, irrespective of gender, social class or disability.
- (2) Without prejudice to the generality of subsection (1), an education board or a board of management shall develop and implement plans for the promotion of equal opportunities of access to, and participation in, the various levels of school education for which the education board or board of management is responsible.
- (3) An education board or a board of management shall ensure that both the curriculum and the associated teaching materials at an educational institution are gender sensitive.
- (4) Gender issues and the development of gender sensitive teaching methodologies shall be integral to the pre-service and in service training of teachers.
- (5) The Minister shall endeavour to provide equal education opportunities for both male and female learners.
- Provision for protection against gender-based violence
- 32.** (1) An education board or a board of management shall develop procedures for preventing the gender-based violence of employees, teachers and learners at educational institutions.
- (2) An education board or a board of management shall establish mechanisms of dealing with cases of gender-based violence.
- Personal health and nutrition of learners
- 33.** The Minister shall, in collaboration with the Minister responsible for health and any other national or international agency, promote the personal health and nutritional well being of learners at educational institutions.
- Regulatory provisions on learners
- 34.** (1) The Minister may, by statutory instrument, make regulations to provide for—
- (a) the requirements for admission and attendance at public, aided and community educational institutions;
 - (b) the basic school-going age and age for compulsory attendance at educational institutions;
 - (c) the measures to ensure compulsory attendance at public, aided and community educational institutions;
 - (d) the guidelines for the development of an admission policy by an educational institution;

- (e) the manner of application for enrollment at an educational institution, the forms to be used and fees to be paid for the application;
 - (f) the form of admission, attendance register, the particulars of learners to be entered in any register and the manner in which information contained in any register shall be accessed by members of the public;
 - (g) the content of a code of conduct for learners;
 - (h) the procedure, terms and conditions for suspension, expulsion and re-admission of a learner from an educational institution;
 - (i) the terms and conditions for accommodating learners at a hostel attached to a public, aided or community educational institution;
 - (j) the exemption of a public, aided or community educational institution for learners with special education needs from any provision of this Part; and
 - (k) any other matter required to be prescribed under this Part.
- (2) Regulations made under this section may make different provisions with respect to different learners at different educational institutions and classes.

PART V

PUBLIC EDUCATIONAL INSTITUTIONS

- 35.** (1) The Minister may, by notice in the *Gazette*—
- (a) establish and maintain an educational institution for the purpose of providing to learners—
 - (i) early childhood care development and education;
 - (ii) basic education;
 - (iii) high school education;
 - (iv) adult literacy education;
 - (v) teacher education and training;
 - (vi) open and distance learning education; and
 - (vii) skills training.
 - (b) establish and maintain a teachers' resource centre, laboratory, school clinic or any other facility or service at an educational institution as is necessary for the benefit of learners and teachers; and

Establishment
and
maintenance
of public
educational
institutions

(c) establish and maintain a hostel or any other building for the accommodation of learners at an educational institution.

(2) A public educational institution may be an inclusive institution or a special institution for learners with special education needs.

Right of
public
educational
institution
on State
property

36. (1) Subject to the other provisions of this Act, a public educational institution situated or built on any land owned by the State may, for the duration of its existence, occupy and use the land for educational purposes for the benefit of the educational institution.

(2) The Minister may restrict the right conferred in subsection (1) where the land or property is not used by the educational institution in the interests of education or is used for purposes other than the provision of education.

(3) The Minister shall not invoke any power conferred under subsection (2) unless the Minister—

(a) informs the education board concerned, in writing, of the intention to restrict the right and the reasons therefor;

(b) grants the education board concerned, an opportunity to make representations to the Minister in relation to the matter; and

(c) considers the representations made by the education board concerned.

(4) The right conferred in this section is enforceable against any successor in title to the owner of the land or property.

(5) In this section, land or property owned by the State includes any land or property held in trust for, or on behalf of, a local community by any trust established by the State.

Public
educational
institution on
private
property

37. (1) The Minister may establish and maintain a public educational institution on a private property.

(2) The establishment and maintenance of a public educational institution on any private property shall be governed by the terms and conditions of an agreement between the Minister and the owner of the private property.

(3) The terms of the agreement referred to under subsection (2) shall include—

(a) the provision of education and the functions of the public educational institution;

(b) the governance of the public educational institution, including the relationship between the education board and the owner;

- (c) access by any interested persons to the property;
- (d) security of occupation and use of the property by the public educational institution;
- (e) the rights and obligations of the parties on the determination of the agreement and the surrender of the land or property;
- (f) the maintenance and improvement of the building and the property and the supply of any necessary service; and
- (g) the protection and enforcement of the owner's rights in respect of the property occupied or used by the public educational institution.

(4) The rights conferred under this section are enforceable against any successor in title to the owner of the land or property.

(5) The Registrar of Deeds shall, on application in the prescribed manner by an owner of any land on which a public educational institution is built, endorse on the title deed the fact that a public educational institution has been established on the land in terms of this Act.

(6) The Registrar of Deeds shall cancel an endorsement made in accordance with subsection (5) if the owner of the property on which a public educational institution is established, submits an affidavit from the Minister to the effect that the public educational institution has been closed in accordance with this Act.

38. (1) The Minister may, with the approval of Cabinet, authorise a public educational institution to enter into partnership with a private sector body in accordance with the provisions of the Public-Private Partnership Act, 2009.

Public-private partnerships

Act No. 14 of 2009

(2) Subsection (1) does not apply to public educational institutions existing before the commencement of this Act.

39. The Minister shall take measures to ensure that any physical facility at any public educational institution is accessible to learners with special education needs.

Accessibility of public educational institution

40. (1) Where a public educational institution is organised into two or more levels, the education board of the public educational institution shall apply to the Minister to have the institution divided into two or more public educational institutions.

Division of public educational institution into two or more institutions

(2) The Minister may approve an application made under subsection (1), on such terms and conditions as the Minister may determine, or reject the application.

(3) The Minister shall, where the Minister rejects an application under subsection (2), notify the applicant accordingly and give reasons therefor.

(4) An education board shall, where the Minister approves the application made under subsection (1), maintain each public educational institution as a separate public educational institution from the date of the approval.

(5) The constitution of a separate public educational institution under this section shall not be treated as the establishment of a new public educational institution.

(6) In this section, “level” in relation to a public educational institutional, means a part of the institution under a separate head of institution.

Merger of
public
educational
institutions

41. (1) Subject to subsection (2), the Minister may, by notice in the *Gazette*, merge two or more public educational institutions into a single public educational institution.

(2) The Minister shall, before merging public educational institutions—

(a) give written notice to the education board concerned of the intention to merge the public educational institutions;

(b) publish a notice giving the reasons for the proposed merger in one or more daily newspapers of general circulation in the area in which the public educational institutions are situated;

(c) give the education board concerned, at least ninety days from the date of the notice within which to make its representations on the proposed merger; and

(d) take into account any representations made by the education board concerned or any other person affected by the proposed merger.

(3) The Minister shall not merge any public educational institutions unless the Minister is satisfied that the education board concerned has complied with obligations under any applicable labour law in respect of the staff.

Closure of
public
educational
institution

42. (1) The Minister may close for a specified period any public educational institution, facility or service where the institution, facility or service—

(a) is not used in accordance with the provisions or requirements of this Act;

- (b) does not have a full time teacher whilst in session except by distance education;
- (c) is used in a manner that is detrimental to the interests of the learners, public peace and security, good governance or the health and security of the learners; or
- (d) has ceased to provide the facility or service for which it was established.

(2) The Minister may close any public educational institution, facility or service, for a specified period, on grounds of health or public disorder.

(3) The Minister shall not close any public educational institution, facility or service under this section unless the Minister—

- (a) informs the education board concerned of the intention to close the public educational institution, facility or service and the reasons therefor;
- (b) gives the education board concerned an opportunity to make representations on the proposed closure;
- (c) conducts a public hearing in the area to enable the local community to make representations on the proposed closure; and
- (d) takes into account any representations made by the education board concerned or any other person affected by the proposed closure.

(4) Where a public educational institution is closed for a period exceeding fourteen days, a district director of education shall make alternative arrangements for the learners and teachers.

(5) Where a public educational institution is closed under subsection (1), any assets of the public educational institution shall, subject to the conditions of any donation, bequest or trust given to the public educational institution in relation to the assets, devolve to the State unless otherwise agreed between the Minister and the education board concerned.

43. The Minister may order a public educational institution to change the site for its institution where the change is in the public interest or to facilitate the efficient and effective provision of education at the public educational institution.

Change of site of public educational institution

44. (1) The Minister may, by statutory instrument, establish an education board as a governance body for—

Establishment of education boards

- (a) a public educational institution;
- (b) an area or areas in respect of specified classes or types of public educational institutions; or
- (c) any education service provided in accordance with this Act.

(2) The Minister shall, where an education board is established under this section, exercise the functions of the education board from the date of its establishment until the date of its first meeting.

Functions of
education
board

45. The functions of an education board are to—

- (a) interpret and implement national policies on education;
- (b) prepare, review and adopt annual budgets for the effective and efficient performance of an educational institution under its jurisdiction;
- (c) monitor management performance regularly;
- (d) in consultation with the Minister, establish schools;
- (e) submit bi annual and annual reports to the district director of education;
- (f) oversee the implementation of control systems and compliance with the law and governance, accounting and auditing standards;
- (g) ensure that the premises of an educational institution under its jurisdiction are safe and clean;
- (h) provide guidelines on the instruction and discipline of learners;
- (i) receive, on behalf of an educational institution under its jurisdiction, gifts, donations, bequests, grants or other moneys and make disbursements thereof to the educational institution;
- (j) determine the fees and charges, if any, to be paid to an educational institution under its jurisdiction;
- (k) monitor and supervise developmental projects of an educational institution under its jurisdiction;
- (l) ensure that an educational institution under its jurisdiction procures goods and services in accordance with the provisions of the Public Procurement Act, 2008;
- (m) ensure that the education provided by an educational institution under its jurisdiction conforms to the standards determined under this Act; and

Act No. 12
of 2008

(n) perform any other functions as may be conferred on the education board under this Act or any other law.

46. There shall be established, as a governance structure in a public educational institution, a parents-teachers committee.

Parents-
teachers'
committees

PART VI

PRIVATE EDUCATIONAL INSTITUTIONS

47. (1) A person shall not operate a private educational institution unless the educational institution is registered under this Act.

Prohibition of
operation of
unregistered
private
educational
institution

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

48. (1) A person may establish and maintain a private educational institution for the purpose of providing any level of education under this Act.

Establishment
and
maintenance
of private
educational
institution

(2) The establishment of a private educational institution under subsection (1) may include the provision of a hostel for the accommodation of learners at the institution.

(3) A private educational institution may be an inclusive institution or for learners with special education needs.

49. (1) A proprietor of a private educational institution shall appoint a board of management for the private educational institution.

Board of
management

(2) A board of management appointed under subsection (1) shall be responsible for the management of the private educational institution.

50. (1) A private educational institution shall develop an operational plan which shall include the following:

Operational
plan of
private
educational
institution

(a) the proposed education level or course of study which the institution intends to offer;

(b) the governance structure of the institution;

(c) the premises where the institution is to operate in Zambia including the facilities and resources;

(d) if the level of education or course is to be delivered by an agent, the name and address of the agent;

(e) the mode of delivery of education to be used in the operation;

- (f) the requirements of the course or level of education to achieve the learning outcomes; and
- (g) the level and name of the award that may be attained on successful completion of the course or level of education.

(2) A proprietor of a private educational institution shall submit the operational plan prepared in accordance with subsection (1) to the Minister for approval.

(3) A private educational institution shall not commence any operations until its operational plan is approved by the Minister.

(4) An operational plan of a private educational institution shall be available for inspection, at a nominal fee, by members of the public during ordinary office hours at the premises at which the private educational institution is registered to operate.

Change in
establishment
or
operational
plan

51. (1) A proprietor of a private educational institution shall, where any change or alteration occurs at the institution, inform the Registrar of the change or alteration within fourteen days of the change or alteration.

(2) A change shall not be effected in the establishment or operational plan of any private educational institution unless the Minister approves the change and the particulars of the change are recorded in the Register.

(3) For the purposes of this section, a change in the establishment or operational plan of a private educational institution means—

- (a) the provision of any additional class, grade or course in the institution not included in any previous registration;
- (b) the re opening of the closed institution;
- (c) the change of ownership or management of the institution, whether the change takes effect by way of partnership or otherwise;
- (d) the transfer of the institution to a new site or change of its principal office;
- (e) the alteration of any qualification for admission to the institution; or
- (f) the provision of any type of education not falling within the classification in which the institution was previously registered.

52. (1) The Minister may designate one member of staff of the Ministry as Registrar of private educational institutions.

Registrar of private educational institutions

(2) The Minister may designate any other member of staff of the Ministry as Deputy Registrar of private educational institutions to assist the Registrar in the performance of the Registrar's functions under this Act, and to discharge the functions of the Registrar where the Registrar is absent or is, for any reason, unable to discharge the functions of the office of Registrar.

(3) The Registrar may delegate any of the functions of the Registrar to the Deputy Registrar.

53. (1) A person who intends to operate a private educational institution shall apply to the Registrar for registration of the private educational institution in the prescribed manner and form upon payment of the prescribed fee.

Application for registration of private educational institution

(2) The Registrar may, upon receipt of an application under subsection (1), approve the application, on such terms and conditions as the Registrar may determine, or reject the application.

(3) The Registrar shall, where the Registrar rejects an application for registration, inform the applicant accordingly and give the reasons therefor.

(4) The Registrar may require further information, particulars and documents in support of an application for registration.

54. (1) The Registrar shall not approve an application made under section *fifty-three* unless—

Criteria for registration

(a) the private educational institution has an approved operational plan;

(b) the establishment of the private educational institution is consistent with the needs of learners and the subsisting national education policy;

(c) the private educational institution and any hostel or other facilities provided or to be provided at the institution are suitable and adequate, having regard to the number, age and gender of the learners who are to attend the institution;

(d) the private educational institution fulfills the prescribed minimum requirements of health and safety and conforms with any building regulations under any written law;

- (e) adequate financial provision has been made or is guaranteed for the proper maintenance of the private educational institution for a reasonable period;
- (f) the teaching staff to be employed at the private educational institution are qualified for the purpose of efficient provision of qualitative education;
- (g) the education programmes to be provided at the private educational institution are of a quality that will enable the institution to provide a standard of education provided by a comparable public or aided educational institution; and
- (h) the equipment to be used at the private educational institution will allow satisfactory tuition in the subjects to be offered at the institution.

(2) The Registrar may provide for different conditions in respect of different private educational institutions.

Provisional
certificate of
registration

55. (1) The Registrar may provisionally register a private educational institution which does not fulfill the requirements for registration under this Act, where the Registrar has reasonable grounds to believe that the institution is able to fulfill the relevant requirements within a specified period.

(2) The Registrar shall, where the Registrar provisionally registers a private educational institution under subsection (1)—

- (a) determine the period within which the private educational institution shall satisfy the requirements for registration;
- (b) issue a certificate of provisional registration to the private educational institution stating the terms, conditions and the duration of the registration;
- (c) publish the certificate of provisional registration in the *Gazette* within thirty days from the date of its issue; and
- (d) enter the private educational institution's name in the appropriate register.

(3) The Registrar may extend the duration of the provisional registration of a private educational institution on such terms and conditions as the Registrar may determine:

Provided that the extended duration of the provisional registration shall not exceed twelve months.

(4) The Registrar shall, where prior to the expiry of the period referred to under subsection (2), the private educational institution meets the requirements for registration, register the institution in accordance with this Act.

(5) A private educational institution's provisional registration shall lapse if the private educational institution fails to meet the requirements for registration within the period referred to under subsection (2).

(6) A private educational institution registered provisionally shall be deemed to be registered on the date on which it is issued with a certificate of registration.

(7) The Registrar shall revoke a provisional certificate of registration if—

- (a) the holder thereof fails to comply with its terms and conditions within the specified period; or
- (b) any ground exists on which the Registrar would have rejected its application for registration.

56. The Registrar shall, where the Registrar approves an application under section *fifty-three*, issue the applicant with a certificate of registration in the prescribed form.

Certificate of registration

57. The head of a private educational institution shall display—

- (a) in a conspicuous place on its premises, its certificate of registration or provisional registration or a certified copy thereof; and
- (b) on all its official documents, its registration number and an indication that it is registered or provisionally registered.

Display of certificate of registration

58. (1) A proprietor of a private educational institution shall not operate the institution on any premises within Zambia other than the premises or principal office specified in the certificate of registration of the institution.

Premises for operation of private educational institution

(2) A private educational institution shall ensure that any physical facility at the private educational institution is accessible to learners with special education needs.

(3) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

- Keeping of records **59.** The head of a private educational institution shall keep and maintain such records and provide such information as the Minister may prescribe for purposes of this Act.
- Annual fee **60.** A private educational institution shall in each year, not later than the date prescribed by the Minister, pay to the Registrar such annual fee as may be prescribed.
- Renewal of registration **61.** A proprietor of a private educational institution may apply to the Registrar for the renewal of the registration in the prescribed manner and form.
- De-registration of private educational institution **62.** (1) The Registrar may de-register a private educational institution where—
- (a) any ground exists on which the Registrar would have rejected the application for registration;
 - (b) the institution contravenes any term or condition of the certificate of registration or any provision of this Act;
 - (c) the institution operates without a board of management;
 - (d) the institution has ceased to operate or exist; or
 - (e) the institution has been closed for a period exceeding six months.
- (2) The Registrar shall, before de-registering a private educational institution under subsection (1)—
- (a) by notice in writing—
 - (i) inform the private educational institution of the intention to de-register it;
 - (ii) state the ground for the proposed de-registration; and
 - (iii) state the date on which the de-registration is proposed to be done;
 - (b) invite the private educational institution to make written representations to the Registrar on the matter, within thirty days from the date of the notice; and
 - (c) take into account the representations, if any, made by the private educational institution under paragraph (b).
- Closure of private educational institution **63.** (1) The Minister may close a private educational institution where the private educational institution—
- (a) fails to comply with the terms and conditions of registration of the institution or with any provision of this Act; or

(b) is operated in a way that is detrimental to the welfare of the learners at the institution.

(2) The Minister shall, before closing a private educational institution under subsection (1), by notice, in writing, order the private educational institution to take such remedial measures within a specified period, not exceeding six months, as the Minister may determine.

(3) The Minister shall, by notice to the proprietor of a private educational institution, order the closure of a private educational institution where its proprietor fails to take any remedial measures as may be determined by the Minister and such order shall be published in the *Gazette*.

(4) The Minister may close a private educational institution for a specified period on grounds of health or public disorder.

64. (1) A private educational institution shall, where it is de-registered under section *sixty-two* or its provisional registration is revoked under section *fifty-five* submit the original certificate of registration or provisional registration to the Registrar within fourteen days of the de-registration or revocation, as the case may be.

Surrender of certificate of registration

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

65. The Registrar shall, within the first quarter of every calendar year, publish in the *Gazette* and a daily newspaper of general circulation in Zambia, a list of all the registered private educational institutions.

Publication of list of registered private educational institutions

66. (1) The Registrar shall keep or cause to be kept a register of private educational institutions registered under this Act.

Register of private educational institutions

(2) The Registrar shall—

(a) enter in the register, the name, type and address of any registered private educational institution, the scope of its registration, the name and occupation of the proprietor and any other particulars in the prescribed system of classification and nomenclature;

(b) make in the register, any alterations or changes in the particulars of any registered private educational institution; and

(c) cancel from the register, the name of a private educational institution whose registration is de-registered.

(3) The Register shall be open to public inspection at such times as the Minister may determine.

(4) A person who makes or causes to be made any unauthorised entry, alteration or erasure in the register, or in any other certified copy of the register, commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

Grant of aided status to private educational institution

67. (1) The Minister may, in the prescribed manner, grant aided status to any private educational institution.

(2) Where a private educational institution is granted aided status under subsection (1)—

(a) it shall be operated as an aided educational institution; and

(b) the provisions of Part VIII shall apply to the institution.

Service of notice

68. For purposes of this Part, a notice, order or other document required to be given or served on a proprietor of a private educational institution may be served on the proprietor by delivering it to the registered address of the private educational institution.

Appeals

69. (1) A person aggrieved with a decision of the Registrar under this Part may appeal to the Minister within thirty days of the decision.

(2) A person aggrieved with the decision of the Minister under subsection (1) may appeal to the High Court within thirty days of the decision.

(3) The decision of the Minister under this Part shall not take effect until the period allowed for an appeal under subsection (2) has lapsed or where an appeal is instituted against the decision, the day the appeal is determined.

PART VII

COMMUNITY EDUCATIONAL INSTITUTIONS

Definition

70. In this Part—

“Registrar” means the Registrar of Community Educational Institutions; and

“school committee” means a parents-teachers’ school committee.

71. (1) A person or community shall not operate a community educational institution unless the institution is registered under this Act.

Prohibition of operation of unregistered community educational institution

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

72. (1) A community may establish, own or maintain an educational institution for the purpose of providing any level of education under this Act.

Establishment and maintenance of community educational institution

(2) The establishment of a community educational institution may include the provision of a hostel for the accommodation of learners at the educational institution.

(3) A community educational institution may be an inclusive institution or for learners with special education needs.

73. (1) A community that intends to operate a community educational institution shall constitute a school committee.

Establishment of parents-teachers' school committee

(2) A school committee constituted under subsection (1) shall comprise not less than six and not more than thirteen members.

(3) The functions of a school committee are to—

- (a) regulate the conditions of enrollment of learners at the community educational institution, including the fees, if any, to be paid to the school committee;
- (b) subject to the approval of the Minister, determine the calendar to be observed at the community educational institution, the subjects of instruction to be provided and the syllabi;
- (c) determine, with the approval of the Registrar, the conditions of suspension or exclusion of learners enrolled at the community educational institution;
- (d) cause to be kept proper accounts of income and expenditure and give a detailed report of such accounts to the Registrar; and
- (e) do all such things as are necessary or incidental for the achievement of its purpose.

74. (1) The Minister shall designate a district director of education as Registrar of community educational institutions.

Registrar of community educational institutions

(2) The Registrar may delegate any of the functions of the office of Registrar to any officer in the district education office.

Application
for
registration
of
community
educational
institution

75. (1) A community which intends to operate a community educational institution shall apply to the Registrar for the registration of the community educational institution in the prescribed manner and form upon payment of the prescribed fee.

(2) The Registrar may, upon receipt of an application under subsection (1), approve the application, on such terms and conditions as the Registrar may determine, or reject the application.

(3) The Registrar shall, where the Registrar rejects an application under subsection (1), inform the applicant accordingly and give the reasons therefor.

(4) The Registrar may require further information, particulars and documents in support of an application for registration.

Criteria for
application

76. (1) The Registrar shall not approve an application made under section *seventy-five* unless—

- (a) the community has established a school committee in accordance with this Act;
- (b) the establishment of the community educational institution is consistent with the needs of learners and the subsisting national education policy;
- (c) the community educational institution and any hostel or other facilities provided or to be provided at the institution are suitable and adequate, having regard to the number, age and gender of the learners;
- (d) the community educational institution fulfills the prescribed minimum requirements of health and safety and conforms with any building regulations under any written law;
- (e) adequate financial provision has been made or is guaranteed for the proper maintenance of the community educational education for a reasonable period;
- (f) the teaching staff to be employed at the community educational institution are qualified for the purpose of efficient provision of qualitative education;
- (g) the education programmes to be provided at the community educational institution are of a quality that will enable the institution to provide a standard of education that is not inferior to the standard of education provided by a comparable public or aided educational institution; and
- (h) the equipment to be used at the community educational institution will allow satisfactory tuition in the subjects to be offered at the institution.

(2) The Registrar shall notify the Minister of the registration of any community educational institution.

(3) The Registrar may provide for different conditions in respect of different community educational institutions.

77. The Registrar shall, where the Registrar approves an application under section *seventy-five*, issue the applicant with a certificate of registration in the prescribed form.

Certificate of registration

78. The Registrar shall, within the first quarter of every calendar year, publish in the *Gazette* and a daily newspaper of general circulation in Zambia, a list of all the registered community educational institutions.

Publication of list of registered community educational institution

79. (1) The Registrar shall keep, or cause to be kept, a register of community educational institutions established under this Act.

Register of community educational institutions

(2) The Registrar shall—

(a) enter in the register, the name, and address of any registered community educational institution, the scope of its registration, the names and occupations of the members of a school committee and any other particulars in the prescribed system of classification and nomenclature;

(b) make in the register, any alterations or changes in the particulars of any registered community educational institution; and

(c) cancel from the register, the name of a community educational institution which is de-registered.

(3) The register shall be open to public inspection at such times as the Minister may determine.

(4) A person who makes or causes to be made any unauthorised entry, alteration or erasure in the register, or in any other certified copy of the register, commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

PART VIII

AIDED EDUCATIONAL INSTITUTIONS

- Prohibition of operation of aided institution without certificate of aided status
- 80.** (1) A person shall not operate an aided educational institution unless the institution is in possession of a certificate of aided status issued under this Act.
- (2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.
- Application for aided status
- 81.** (1) A person, organisation or community may establish, own or maintain an aided educational institution for the purpose of providing any level of education under this Act.
- (2) A person, organisation or community that establishes, owns or maintains an educational institution may apply to the Minister for aided status in the prescribed manner and form upon payment of the prescribed fee.
- (3) The establishment of an aided educational institution may include the provision of a hostel for the accommodation of the learners at the institution.
- (4) An aided educational institution may be an ordinary institution or for learners with special education needs.
- Grant of aided status to educational institution
- 82.** (1) The Minister may grant an educational institution aided status, where the Minister is satisfied that the institution meets such requirements and conditions as the Minister may prescribe.
- (2) The Minister shall, where the Minister grants an educational institution aided status, issue the institution with a certificate of aided status in the prescribed form.
- (3) The Minister may, by notice in the *Gazette*, categorise an educational institution that is granted aided status under subsection (1), in accordance with the form of aid received.
- (4) The aided status granted under this section may be in the form of—
- (a) a subsidy;
 - (b) the provision of any materials;
 - (c) operational and capital development costs;
 - (d) the provision of teachers who are staff members of the Ministry;
 - (e) a combination of two or more of the forms of aid referred to in paragraphs (a), (b), (c) and (d); or
 - (f) any other form of aid determined by the Minister.

(5) The Minister shall, where the Minister rejects an application for aided status, inform the applicant accordingly and give the reasons therefor.

83. (1) A proprietor of an aided educational institution shall, with the approval of the Minister, appoint a board of management for the institution.

Board of
management

(2) A board of management established under subsection (1) shall be responsible for the management, conduct and discipline of learners at the aided educational institution.

(3) A proprietor of an aided educational institution may, with the approval of the Minister, appoint a managing agency to perform the functions of the board of management stipulated under this Act.

84. The functions of a board of management are to—

Functions of
board of
management

- (a) provide education and educational facilities of such a nature as the Minister, proprietor or managing agency may determine in accordance with the principle of providing quality education;
- (b) administer, maintain and control the aided educational institution for which it is appointed;
- (c) employ such persons as it may determine;
- (d) enter into arrangements for the secondment, into its service, of teachers and other staff of the Ministry;
- (e) regulate the conditions of enrolment of learners at the aided educational institution, including the fees and charges, if any, to be paid to the board of management;
- (f) regulate the calendar to be observed at the aided educational institution, the subjects of instruction to be provided and the syllabi in respect of such subjects in accordance with guidelines given by the Minister;
- (g) determine the conditions of suspension, or exclusion of learners enrolled at the aided educational institution;
- (h) carry out any other functions specified by the constitution of the board of management; and
- (i) do all such things as are necessary for the achievement of its purposes.

85. (1) An aided educational institution shall, with the approval of the Minister, develop and adopt a constitution and operate in accordance with the constitution.

Constitution
of aided
educational
institution

(2) A constitution of an aided educational institution shall provide for the following:

- (a) the name and occupation of the proprietor of the institution;
- (b) the name and purpose of the institution;
- (c) the membership, powers, functions, tenure and proceedings of the board of management of the institution;
- (d) the adequacy of the infrastructure and facilities of the institution for delivery of quality education and any safeguards for the general welfare and well-being of learners;
- (e) the control and management of the institution and the terms and conditions for the dissolution of the board of management;
- (f) the establishment, membership and functions of any committee of the board of management of the institution;
- (g) the remuneration and allowances of members of the board of management and of its committees;
- (h) the control and management of funds by the board of management of the institution; and
- (i) the preparation and adoption of any annual report on the activities of the board of management.

(3) A board of management shall submit its constitution to the Minister for approval within ninety days of the establishment of the board of management.

(4) The Minister may, upon receipt of a constitution under subsection (3), approve the constitution, on such terms and conditions as the Minister may determine, or reject it.

(5) A board of management shall not amend its constitution without the written approval of the Minister.

(6) A proprietor of an aided educational institution shall exercise the functions of the board of management of the institution from the date of the establishment of the board until the date of its first meeting.

Change of
site of aided
educational
institution

86. (1) A proprietor of an aided educational institution may apply for a change of site of the aided educational institution.

(2) The Minister may, in the public interest or on grounds of the health of the learners at an aided educational institution—

- (a) approve the change of site of the aided educational institution; or

(b) by order, in writing, direct the proprietor of the aided educational institution to change the site of the institution.

87. An aided educational institution shall display its certificate of aided status in a conspicuous place at its registered premises.

Display of certificate of aided status

88. (1) The Minister may, where an aided educational institution is operated or being managed in a manner which is detrimental to the physical, mental or general welfare of the learners at the institution, suspend the operations of the institution.

Suspension of operations of aided educational institution

(2) The Minister may, where the Minister suspends the operations of an aided educational institution under subsection (1), order the institution to take any remedial measures in the prescribed manner and period.

(3) The Minister may withdraw the aided status granted to an educational institution which fails to take any remedial measures ordered under subsection (2).

89. (1) The Minister may, where an aided educational institution does not comply with any term or condition subject to which aided status was granted, reduce or terminate the aid.

Reduction or termination of aid

(2) The Minister shall not reduce or terminate any aid granted to an educational institution under this Part unless the Minister gives its proprietor an opportunity to make written representations on the proposed reduction or termination of the aid.

(3) A board of management of an aided educational institution shall, where the aid of the institution is terminated under this section, surrender the certificate of aided status to the Minister within fourteen days of the termination.

90. (1) The Minister may, on grounds of public interest, by notice in the *Gazette*, order the closure of an aided educational institution or any part thereof on such date as the Minister may determine in the notice.

Closure of aided educational institution

(2) The board of management of an aided educational institution may, where the Minister orders the closure of the institution under subsection (1), make representations to the Minister on the proposed closure.

(3) The Minister may, where an aided educational institution is closed under this section and remains closed for a consecutive period of six months, or more, cancel the name of the aided educational institution from the register.

(4) A person who operates an aided educational institution that is closed under this section, commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Re-opening
of
closed aided
educational
institution

91. (1) The Minister may direct that an aided educational institution, or part thereof, closed for a period of less than six months be re-opened on such terms and conditions as the Minister may determine.

(2) The board of management of an aided educational institution closed for a period exceeding six months may apply for re-opening of the institution in the prescribed manner and form upon payment of the prescribed fee.

Publication
of list of
aided
educational
institutions

92. The Minister shall, on such date as the Minister may determine, publish in the *Gazette* a list of aided educational institutions.

Register of
aided
educational
institutions

93. The Minister shall keep or cause to be kept a register of aided educational institutions which shall contain such particulars as the Minister may prescribe.

Appeal

94. A person aggrieved with the decision of the Minister under this Part may appeal to the High Court within thirty days of the decision.

PART IX

CURRICULUM, ASSESSMENT AND CERTIFICATION

National
school
curriculum

95. (1) The Minister shall specify the curriculum, syllabi, books and other materials to be used at an educational institution.

(2) The Minister may, for purposes of enhancing the effectiveness and quality of school education, ensure that the curriculum referred to in subsection (1)—

(a) is comprehensive, balanced, integrated, diversified and relevant and—

(i) promotes the spiritual, moral, social, cultural, mental and physical development of learners and of society; and

(ii) prepares learners for the opportunities, responsibilities and experiences of adult life; and

- (b) comprises the core and other foundation subjects and specifies in relation to each of them—
- (i) the attainment targets at foundation stage and at each key stage;
 - (ii) the programmes of study at foundation stage and at each key stage; and
 - (iii) the assessment arrangements at foundation stage and at each key stage.
- (3) For the purposes of this Part, the foundation stage in relation to a learner is the pre school.
- (4) For the purposes of this Part, the key stages in relation to a learner shall be—
- (a) the lower basic stage, which is the second key stage;
 - (b) the middle basic stage, which is the third key stage;
 - (c) the upper basic stage, which is the fourth key stage;
 - (d) the high school stage, which is the fifth key stage; and
 - (e) the tertiary stage, which is the sixth key stage.
- (5) The curriculum referred to in subsection (1) may be revised if the Minister considers it expedient to do so.

96. (1) The curriculum for all the stages—

- (a) shall comprise the following areas of learning:
- (i) personal, social, spiritual, cultural and emotional;
 - (ii) communication, language and literacy;
 - (iii) mathematical and scientific development;
 - (iv) knowledge and understanding of the world;
 - (v) physical education and development; and
 - (vi) creative development; and
- (b) may specify in relation to the areas of learning referred to in paragraph (a)—
- (i) the knowledge, skills, values and attitudes which learners are expected to have by the end of each stage;
 - (ii) the matters, skills and processes which are required to be taught to learners of different abilities and maturities during each stage; and
 - (iii) assessment arrangements.

Core and other foundation subjects for each stage

- (2) The Minister may, by statutory instrument, prescribe the study area, attainment targets, programmes of study and assessment arrangements for all the stages.
- 97.** A public, community, aided or private educational institution may introduce a maximum of two non-examinable or skill focused subjects that reflect the local environment where the educational institution is situated.
- 98.** (1) Subject to subsection (2), the language of instruction at any level of the education system shall be English.
- (2) Notwithstanding subsection (1), the Minister may, in consultation with an education board or a board of management—
- (a) approve any language in which a learner may learn to read and write;
 - (b) determine a language to be used for the teaching of initial literacy and numeracy skills in any lower basic class;
 - (c) determine a language which shall be compulsory for any learner from basic to high school level in any locality; and
 - (d) approve a language to be learnt up to school certificate level.
- 99.** An educational institution shall use sign language as a medium of instruction to any learner who uses sign language as the learner's first language or who has special need for sign language.
- 100.** (1) The Minister may, by statutory instrument, determine—
- (a) the annual academic calendar, the duration of any academic year and the terms of an academic year for educational institutions;
 - (b) the minimum number of days in a year in which instruction shall be given;
 - (c) the minimum hours of instruction which educational institutions shall observe;
 - (d) the total learning time in respect of each study area in the curriculum; and
 - (e) the number of working days and holidays in any academic year.
- (2) An education board or board of management shall determine the times of a learning session within an academic calendar.

(3) The head of institution shall determine the timetable for the teaching of the national and the localised curriculum at the educational institution.

(4) The Minister may, by statutory instrument, approve the variation of the calendar of an educational institution determined under this section.

101. (1) Community educational institutions shall use the curriculum used in the public and aided educational institutions.

Curriculum
for
educational
institution

(2) Open learning and distance educational institutions shall use the curriculum for public and aided educational institutions.

(3) The Minister may, on application by a private educational institution, approve the curriculum, language of instruction and the examining body for the private educational institution where the curriculum, language of instruction or examining body differs from that used by a public or aided educational institution.

102. An educational institution shall only use books or other educational material approved by the Minister.

Development
and
publication
of textbooks
and other
educational
materials

103. (1) The Minister may, in writing, order that any book, newspaper, document or other printed or written matter, any film, picture, visual or aural aid or any record of speech or language, of whatsoever kind, be banned from use as educational material in any educational institution on grounds of public interest, morality or policy.

Proscription
of certain
publications

(2) A person who contravenes an order given by the Minister in accordance with subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

104. The Minister shall develop a framework to guide the provision of libraries in all educational institutions.

Provision of
libraries in
educational
institutions

105. There shall be established resource centres at all levels for the purpose of the continuing professional development.

Teacher
resource
centres

106. (1) There shall be established teacher resource centres at the national, regional and district levels for purposes of special education needs.

Resource
centres for
special
education
needs

(2) A resource centre shall have an approved establishment to enable the resource centre carry out its services in the field of special education.

(3) The Minister may, by statutory instrument, prescribe the services to be offered by the resource centres established pursuant to subsection (1) and provide for the management and administration of the centres.

Determination
of
competence
test and
public
examination

107. (1) The Minister may, by statutory instrument, determine the system of national assessment and the conduct of any competence and diagnostic test or examination by a public, aided or community educational institution.

Cap. 137

(2) A public, aided or community educational institution shall conduct public examination and assessment in accordance with the national policy on education and the Examinations Council of Zambia Act.

Regulations
relating to
curriculum,
assessment
and
certification

108. (1) The Minister may, by statutory instrument, make regulations—

- (a) providing for the procedure for the preparation or approval of the curriculum, books and other educational materials for use in educational institutions;
- (b) prescribing the establishment, development and operation of a system of national assessment;
- (c) prescribing the conditions of any examination held by, or under, the direction of the Ministry and the fees payable in respect of the examination;
- (d) prescribing the duration of a teaching practice and the structure of a basic teacher training programme in a college of education not accredited to any university;
- (e) prescribing the design and development of the basic teacher training curriculum, including the standards of tuition relating to public or aided college of education and any other post school educational institution not accredited to any university;
- (f) prescribing the language to be used for initial literacy;
- (g) providing for the teaching of religious education in a public, aided or community educational institution;
- (h) providing for the manner in which career education and guidance shall be given in a public, aided or community educational institution;

- (i) providing for the development and adoption of guidelines to promote education on sexuality, reproductive health, HIV and AIDS and personal relationships in any educational institution; and
 - (j) providing for anything which is required to be prescribed under this Part.
- (2) Regulations made under this section may make different provision for different levels of the education system.

PART X

ENFORCEMENT OF QUALITY AND STANDARDS IN EDUCATION

109. The Minister shall determine the standards and quality of education and training in educational institutions.

Quality and standards in education

110. (1) There shall be appointed, as public officers, education standards officers to ensure high standards and quality of education at educational institutions and ensure compliance with the provisions of this Act.

Education standards officers

(2) The Minister shall issue an education standards officer appointed under this section with an identification card that shall be *prima facie* evidence of the education standards officer's appointment as such.

(3) The identification card referred to in subsection (2) shall contain such particulars relating to an education standards officer's identity as the Minister may determine.

(4) An education standards officer shall, at the request of any person who is affected by the performance of the education standards officer's functions under this Act, produce for inspection by the person, the identification referred to under subsection (2).

111. (1) An education standards officer shall monitor, evaluate and enforce adherence to set standards of quality in the provision of education by educational institutions in accordance with the provisions of this Act.

Functions of education standards officers

(2) Without prejudice to the generality of subsection (1), the functions of an education standards officer are to—

- (a) inspect any work, management or activity at an educational institution or facility so as to ensure compliance with the provisions of this Act;
- (b) inform the Minister on the state of the education system and advise on the development and implementation of any national policies on education;

- (c) monitor and supervise the provision of education and training by educational institutions and advise on the management of educational institutions;
- (d) monitor and evaluate the management and use of resources by public, aided and community educational institutions;
- (e) monitor the effectiveness of any teacher training and advise the Minister on the priorities and requirements for the training of teachers;
- (f) participate in the development and revision of any curriculum, preparation of any syllabus for any examination and the setting and marking of any examination and monitor the effectiveness of any testing or examination;
- (g) conduct inspections at any educational institution for the purpose of vetting or approving the registration of any aided, community or private educational institution;
- (h) facilitate and guide the registration of teachers and enhance the status of teachers as professionals;
- (i) monitor and review the performance of education boards and boards of management of educational institutions;
- (j) submit to the Minister annual reports and any other report on the performance of the education system; and
- (k) carry out any other functions in connection with education and training as the Minister may direct.

Powers of
education
standards
officer

112. (1) An education standards officer may—

- (a) inspect any educational institution, operation or activity undertaken or carried out on any land, building or premises in connection with matters provided for in this Act;
- (b) inspect and take copies of records or documents of any educational institution kept or used in contravention of the provisions of this Act;
- (c) order the application of measures which are prescribed for purposes of this Act within a specified period;
- (d) recommend to the Minister the closure or seizure of an educational institution;
- (e) order the cessation of any activity or operation carried out in contravention of this Act or any term or condition of registration; and

(f) order the adoption of any measures prescribed for the purpose of protecting the health and welfare of learners at educational institutions.

(2) An owner or occupier of any land, building, premises or conveyance and the owner's employees and agents shall afford an education standards officer access thereto and shall give such information and provide such reasonable assistance as the education standards officer may require for the purpose of carrying out an inspection.

(3) An education standards officer may, in the performance of any functions under this section, be accompanied and assisted by a police officer or other relevant officer.

(4) An education standards officer may, in the course of an inspection carried out under this section—

(a) seize, destroy or dispose of any material, substance, appliance, equipment or document which the education standards officer reasonably suspects is being used contrary to the provisions of this Act; and

(b) order an owner, occupier, person in charge or control of any premises to produce for inspection, or for purposes of obtaining extracts or copies, any book, document or any other information concerning any matter relevant to the administration of this Act.

(5) An education standards officer shall not detain, dispose of or destroy anything in exercise of powers under this Act except by court order.

113. A person who—

(a) willfully delays or obstructs an education standards officer in the carrying out of duties or functions under this Act; or

(b) willfully gives an officer false or misleading information orally, in writing or otherwise;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

114. (1) The Minister may direct an education standards officer to conduct a special inspection of any educational institution in such manner, during such period and for such duration, as the Minister considers necessary.

Obstruction
of education
standards
officer

Special
inspections

(2) An education standards officer shall, upon completion of a special inspection referred to in subsection (1)—

- (a) submit a written report to the Minister on the results of the inspection in the prescribed manner and form; and
- (b) publish the findings of the inspection in the prescribed manner.

Annual
report on
quality and
standards

115. (1) An education standards officer shall, at the end of each academic year, submit to the Minister an annual report on the provision of education by educational institutions.

(2) An annual report shall be in such form and contain such information as the Minister may prescribe.

Regulatory
provisions
on quality
and
standards in
education

116. (1) The Minister may, by statutory instrument, make regulations—

- (a) prescribing the role, functions and responsibilities of education standards officers at national, regional and district levels;
- (b) prescribing the period during which inspections shall be conducted, the manner and procedure for conducting the inspections and the measures for implementing the recommendations from the inspection;
- (c) providing for monitoring and evaluating the effectiveness of inspections;
- (d) providing for the conduct and maintenance of any training programme for education standards officers;
- (e) prescribing a code of conduct for education standards officers; and
- (f) providing for any other matter relating to quality and standards in education as the Minister considers necessary for purposes of this Act.

(2) Regulations under this section may make different provision with respect to different educational institutions.

PART XI

FINANCING OF EDUCATION

Administ-
ration of
public funds

117. (1) The Minister shall, in consultation with the Minister responsible for finance, determine the policy on the funding of the education sector.

(2) The Minister may give financial support from such public funds as Parliament may appropriate for that purpose—

- (a) to an education board, to enable it discharge its functions under this Act; and
- (b) to any organ constituted under this Act, for the performance of its functions under this Act.

118. (1) Subject to other provisions of this Act, an education board or board of management of an educational institution may carry out income generating activities or engage in public-private partnerships to complement any resources from the Government and to improve the quality of education provided at the educational institution.

Fundraising
by education
board or
board of
management

(2) A public, aided or community educational institution shall retain for its use any fee or other charge paid by any person for any service or facility provided by the institution.

(3) A public, aided or community educational institution shall submit audited accounts to the Minister within ninety days of the end of the financial year of the institution.

119. (1) An educational institution shall not charge a learner any tuition or accommodation fee except in accordance with the provisions of this Act.

Tuition,
boarding and
other fees

(2) A public, aided or community educational institution providing basic education shall not charge any admission or tuition fee.

(3) A public or aided high school or college of education shall charge such fees as may be approved by the education board or board of management of the high school or college of education.

(4) The Minister may provide guidelines on fees for educational institutions and the categories of learners.

(5) A person who contravenes subsection (1), (2) or (3) commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

120. (1) The Bursaries Committee established under the repealed Act shall continue to exist as if established under this Act.

Bursary,
grant,
scholarship
and loan
scheme for
learners
Cap. 134

(2) The Minister may establish a bursary and scholarship scheme to assist orphans and vulnerable learners at any public, aided or community educational institution.

(3) The Minister may, by statutory instrument, vest the control and administration of any scheme established under subsection

(2) in an education board or the board of management of an aided educational institution.

(4) The Minister may, by statutory instrument, establish a loan scheme to assist learners to pay for any tuition or other fee at an educational institution.

(5) Notwithstanding subsection (2), the Bursaries Committee may administer any other bursary, grant, scholarship or loan scheme.

General
purpose fund
Cap. 134

121. (1) A general purpose fund established for a public, community or aided educational institution under the repealed Act shall continue to exist as if established under this Act.

(2) The Minister may, by statutory instrument, make regulations to provide for—

- (a) the establishment of general purpose funds for public, aided and community educational institutions;
- (b) the payment of fees for purposes of general purpose funds;
- (c) the extra curricula activities and other activities, whose object is the spiritual, physical and intellectual welfare of learners at an educational institution, for which moneys to the credit of a general purpose fund established for the educational institution may be extended;
- (d) the purpose for which, and the circumstances in which, the moneys of a general purpose fund may be expanded; and
- (e) the administration of a general purpose fund and the safeguarding of other moneys which may be collected for the purpose of an educational institution.

(3) The Minister may, in the exercise of the powers conferred upon the Minister under subsection (1)—

- (a) fix different fees for different classes of learners and for different educational institutions;
- (b) provide for the grant of rebates; and
- (c) prescribe the circumstances in which fees may be refunded or remitted, whether in whole or in part.

Land for
educational
purposes

122. (1) The Minister may, in consultation with the Ministers responsible for land and local government, by statutory instrument, prescribe the terms and conditions under which any land may be acquired or reserved for purposes of education and protected from any encroachment or seizure.

(2) A person who encroaches on land acquired or reserved for the purposes of education commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

123. (1) The Minister may, by statutory instrument, in consultation with the Minister responsible for finance, make regulations to provide for the financing of education for purposes of this Act.

Regulatory provisions on financing of education

(2) Regulations under subsection (1) may make different provision with respect to different areas, educational institutions, organisations, learners or any other person.

PART XII

GENERAL PROVISIONS

124. (1) An educational institution shall not be established or operated on any premises less than three hundred metres from a bar.

Prohibition of operation of educational institution near bar

(2) In this section, “bar” has the meaning assigned to it in the Liquor Licensing Act, 2011.

Act No. of 2011

(3) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

125. There shall be established, as a governance structure, advisory boards in educational institutions, for continuing education.

Advisory boards

126. The Minister shall establish a systematic approach to articulate, coordinate and promote the undertaking and use of any research in the education sector.

Promotion of research

127. (1) A parents-teachers’ association established under the repealed Act shall continue to operate for a period of one year from the appointed date after which the association shall stand dissolved.

Dissolution of parents-teachers’ associations
Cap. 134

(2) The assets and liabilities of a parents teachers’ association dissolved under subsection (1) shall be vested in an education board or board of management concerned, as the case may be.

Prohibition
of
publication
or disclosure
of
information
to
unauthorised
persons

128. (1) A person shall not, without the consent given by, or on behalf of, the Minister, publish or disclose to any unauthorised person, otherwise than in the course of duties of that person, the contents of any document, communication or information whatsoever, which relates to, or which has come to, the knowledge of that person in the course of that person's duties under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates the information to any other person, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Supremacy
of Act
Cap. 1

129. Except for the Constitution, where there is any conflict between this Act and any other law dealing with education, this Act shall prevail.

General
offences and
penalties

130. (1) A person who—

- (a) fails, without reasonable excuse, to furnish any information required for purposes of this Act;
- (b) provides false or misleading information in order to secure any approval, registration, enrolment or any other purpose;
- (c) breaches any condition or requirement imposed under this Act;
- (d) publishes or causes to be published, an advertisement of an educational institution which is not registered under this Act or which is de registered; or
- (e) publishes, uses as part of the curriculum or distributes, in any manner whatsoever, any document, matter or material that is immoral, repugnant or contrary to the interests of learners or public policy;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Offences by
body
corporate or
unincorporate
body

131. Where an offence under this Act is committed by a body corporate or an unincorporate body, every director or manager of the body corporate or unincorporate body shall be liable, upon conviction, as if the director or manager had personally committed

the offence, unless the director or manager proves to the satisfaction of the court that the act constituting the offence was done without the knowledge, consent or connivance of the director or manager or that the director or manager took reasonable steps to prevent the commission of the offence

132. The Minister may, by statutory instrument, prescribe all matters which by this Act are required or permitted to be prescribed, or which are necessary to be prescribed for the carrying out or giving effect to the provisions of this Act.

Regulations

(2) Notwithstanding the generality of subsection (1), regulations made under that subsection may provide for—

- (a) the establishment of an institutional framework for literacy education, open learning and distance education;
- (b) the preparation and implementation of an education development plan;
- (c) the transformation of public and aided primary and secondary schools into basic and high schools;
- (d) the control and management of aided, public and community educational institutions;
- (e) the standard requirements for school buildings, class size, sanitary convenience or any other facilities for educational institutions;
- (f) the conditions for the use of premises of any public educational institution;
- (g) the procedure, powers, membership, tenure, management, dissolution, control and administration of education boards;
- (h) the standard requirements for private educational institutions regarding the following:
 - (i) the quality of education provided by the institutions;
 - (ii) the spiritual, moral, social and cultural development of learners;
 - (iii) the welfare, health and safety of learners; and
 - (iv) the procedure and manner of dealing with any complaint from any learner, parent or other stakeholder;
- (i) the requirements and procedure for registration of private educational institutions;

- (j) the terms and conditions for the grant of aided status to private educational institutions;
- (k) the conditions and procedure for the closure or de registration of a private educational institution;
- (l) the powers, functions and proceedings of school committees;
- (m) the exemption of aided and community educational institutions from the provisions of this Act;
- (n) the powers, functions and proceedings of a board of management of an aided educational institution; and
- (o) the procedure, criteria and the terms and conditions for the award of aided status to an educational institution.

(3) Regulations under this section may make different provision with respect to different of classes of educational institutions.

Repeal of
Caps. 134
and 135

133. The Education Act, 1966, and the African Education Act, 1951, are hereby repealed.

Savings and
transitional
provisions

134. Notwithstanding section *one hundred and thirty-three*, the Schedule applies in respect of the matters stated therein.

SCHEDULE

(Section 134)

SAVINGS AND TRANSITIONAL PROVISIONS

Public,
aided or
community
educational
institutions
Cap. 134

1. (1) A public, aided or community educational institution established under the repealed Act shall be deemed to have been established under this Act.

(2) A public, aided or community educational institution designated as a primary school or secondary school shall continue as a secondary school or primary school, as the case may be, until the designation is revoked on such date as the Minister may, by statutory instrument, determine.

Private
educational
institutions
Cap. 134

2. (1) A private educational institution registered under the repealed Act shall be deemed to have been registered under this Act.

(2) Private educational institutions offering primary or secondary education shall continue to offer primary or secondary education for a period of five years from the appointed date after which the

primary and secondary education shall be phased out or be transformed into basic schools or high schools, as the case may be, in accordance with this Act.

3. Any proceedings commenced or pending in relation to the registration of any school or college under the repealed Act shall be continued in terms of this Act.

Proceedings relating to registration
Cap. 134

4. An education board or board of management established under the repealed Act shall continue to exist until it is revoked on such date as the Minister may, by statutory instrument, determine.

Education boards
Cap. 134

5. (1) Any teachers' association or organisations established under the repealed Act shall continue to exist as if established under this Act.

Teachers' associations
Cap. 134

(2) The Minister may, by statutory instrument, make provision for the period in which, and the terms under which, any teacher shall comply with the provisions of this Act.

6. Any international arrangement, association or protocol recognised under the repealed Act shall continue to exist as if recognised under this Act.

International arrangements
Cap. 134

7. Any appointments made under the repealed Act shall be treated as if made under the corresponding provisions of this Act until terminated or otherwise dealt with under this Act.

Appointments
Cap. 134
